

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 18434 of 2023

Tata Steel Limited, (Hooghly Met Coke Division)
Haldia Contractor's Mazdoor Sangh & Anr.
Vs.
The State of West Bengal & Anr.

For the petitioners : Mr. Sayak Chakaraborti
Mr. Wrickbrata Roy

For the respondents : Mr. Priyankar Saha
Mr. Debangshu Dinda

Heard on : 10th August, 2023.

Judgment on : **10th August, 2023.**

Raja Basu Chowdhury, J:

1. The present writ application has been filed, *inter alia*, challenging withdrawal/cancellation of Certificate of Registration by issuing a communication dated 28th October, 2022.

2. It is the petitioners' case that the petitioner no.1 is a trade union, which is duly registered under the Trade Unions Act, 1926, (hereinafter referred to the "said Act") bearing registration no.29292. Such registration had been issued on 13th January, 2021.

3. The petitioners claim that the petitioner no.1 to espouse the cause of the workmen employed with the Tata Steel Limited, Haldia, is presently party to a proceedings pending before the National Industrial Tribunal.

4. It is the petitioners' case that some time in the month of June, 2022, the petitioner no.1 was served with a notice in Form 'E', issued under Regulation 8 of the Bengal Trade Unions Regulations, 1927 (hereinafter referred to as the "said Regulations"), intimating the intention of the respondent no.2 to proceed on 30th August, 2022, for withdrawal and/or cancellation of the Certificate of Registration of the petitioner no.1 on the following grounds:-

- 1. Non-submission of Annual Returns for more than 3 years.*
- 2. Non-compliance with section 9A of the Trade Unions Act, 1926, as amended.*

5. It is the petitioners' case that the petitioners had since, by a communication in writing dated 13th July, 2022, had requested the respondent no.2 to withdraw the said notice, *inter alia*, by contending the following:-

- "1. That our "Tata Steel Ltd (Hooghly Met Coke Divn), Haldia Contractor's Mazdoor Sangh" is registered on 13th day of January, 2021 as per certificate of Registration of Trade Union having registration No.29292. Hence there is no ground of non-*

submission of Annual Return for more than 3 years. Photo copy of Certificate of Registration is attached here with for your kind perusal.

2. That in the ground no.2 regarding non-compliance with Section 9A of the Trade Union Act, 1926, we do here submit that our strength of members is 386 on our current record. The Photo Copy of Certificate of Registration is attached herewith for your kind perusal”.

6. According to the petitioners, the grounds for withdrawal of the aforesaid Certificate of Registration could not be made applicable insofar as the petitioner no.1 is concerned. The petitioners say that subsequently, the respondent no.2 without considering the petitioners response had purported to issue a notice in Form ‘F’ dated 28th October, 2022, under Regulation 9 of the said Regulations thereby, withdrawing and/or canceling the petitioner no. 1’s registration.

7. Mr. Chakraborti, learned advocate representing the petitioners, submits that the aforesaid order of cancellation is a non-speaking order. Although, an appellate forum has been provided, however, by reasons of the notice in Form ‘F’ being a non-speaking order, the petitioners are otherwise unable to appreciate as to whether the petitioners’ contention had been considered by the authority or not. Even if, the petitioners prefer an appeal before the Appellate

Authority, the Appellate Authority shall not be in a position to appreciate why the petitioners' registration has been withdrawn, having regard to the response of the petitioners.

8. He still further submits that although, the notice in Form 'E' specifically indicated that the respondent no.2, shall proceed to withdraw the cancellation on 30th August, 2022, the same had not been done. No further notice had been served on the petitioners. The aforesaid act is in violation of principle of natural justice. The cancellation had been effected on 28th October, 2022. No opportunity of hearing was given to the petitioners. In the given facts, he submits that the aforesaid order passed by the respondent no.2, which is a non-speaking order, cannot be sustained and the same should be set aside and quashed.

9. *Per contra*, Mr. Saha, learned advocate representing the respondents, submits that there is no irregularity on the part of the respondents in withdrawing the certificate of registration. It is submitted that on the basis of specific grounds indicated in the notice in Form 'E', the registration has been cancelled.

10. According to Mr. Saha, the petitioners do not have adequate number of members, for them to retain the registration and it is for such reasons the notice in Form 'F' had been issued. He submits that since, an alternative remedy in the form of an appeal is

available, this Hon'ble Court, in exercise of its extraordinary jurisdiction, ought not to entertain the present application.

11. Heard the learned advocates appearing for the respective parties and considered the materials on record. I find from the notice in Form 'E', the respondents have set out grounds based on which the petitioner no. 1's registration was proposed to be cancelled. Incidentally, although, a response had been given by the petitioners to the aforesaid notice in Form 'E', there is nothing on record to demonstrate that such response had been considered by the respondent no.2. It appears that the respondent no.2 had mechanically passed the notice in Form 'F'. No opportunity of hearing was given to the petitioners to present their case and the respondent no.2 also did not bother to pass a reasoned order.

12. Having regard to the aforesaid, I am of the view that an alternative remedy in the form of an appeal cannot stand in the way of the petitioners' maintaining the present application, for the simple reason that it is extremely difficult for the Appellate Authority to probe into the mind of the respondent no.2 and to ascertain the reasons/grounds based on which the notice in Form 'F' had actually been issued, since the notice/order in Form 'F' dated 28th October, 2022 is an unreasoned order. There is also no way to ascertain whether the representation dated 13th July, 2022 made by the petitioners had been considered. Since, no reasons have been

provided therefor, and the decision had been taken without giving any opportunity of hearing to the petitioners, on an adjourned date that to without notice of such adjournment to the petitioners, I am of the view that the aforesaid notice in Form 'F' dated 28th October, 2022, cannot be sustained. The same is accordingly set aside and quashed.

13. The respondent no.2 is directed to take into consideration the representation made by the petitioners on 13th July, 2022, and upon giving an opportunity of hearing to the petitioners to take a decision in the matter. Such decision must be taken in accordance with Section 10 of the said Act and be communicated to the petitioners.

14. With the aforesaid observations/directions, the writ petition, being WPA 18434 of 2023 stands disposed of.

15. There shall, however, be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)

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