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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 888 OF 2020
WITH
INTERIM APPLICATION (L) NO.1254 OF 2023**

R.Gopalkrishnan and Ors.

..... Petitioners

Vs.

Registrar of Trade Union and Ors.

..... Respondents

Mr.Sanjay Singhavi, Sr.Advocate i/b Mr.Rahul Kamerkar for the
Petitioners

Mr.Susheel Mahadeshwar i/b Ms.Ranjana Todankar for the
Respondent nos.2, 3 and 4

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : FEBRUARY 06, 2023

P.C. (Per Acting Chief Justice)

1 The Petitioners assail the order of the Registrar of Trade Unions, Mumbai allowing the Registration of the 2018 Amendments to the Respondent no.4 Union's Constitution.

2 Mr.Singhavi, the learned Senior Advocate for the Petitioners submits that the Petitioners are the members of the Respondent no.4 Union. In the General Council Meeting of the Respondent no.4 Union, the amendments were carried out with regard to the clause of

the election of the office bearers. The Petitioners resisted the said amendment in the General Meeting. The amendment was challenged before the Respondent no.1 by filing an Application.

3 One Mr.Ramasare J. Yadav and Mr.Ram Chandra Nana Katkar challenged the said amendment. However, the Registrar only on the ground that the General Body / Council of Respondent no.4 has passed the said amendment, did not interfere in the matter and dismissed the complaint. The same is assailed in the present Writ Petition. According to the learned Senior Advocate, amendment sought is against the democratic principles. As per the said amendment, the President can only be a person having minimum three years working experience in any of the post as President Working President / Executive President / General Secretary of the Union thereby limiting the persons to be elected as President. The same ought to have been considered on the touch stone of the democratic principles.

4 The learned Advocate for the Respondents submits that the Petitioners never raised any objection to the amendment either in the meeting of the General Council or before Respondent no.1. The objection dated 01.10.2018 and 03.10.2018 were filed before the Registrar of Trade Union by Mr.Ramasare J. Yadav and Mr.Ram

Chandra Nana Katkar and not the Petitioners. Mr.Ramasare J. Yadav joined the rival Union i.e. Mumbai Port Trust Kamgar Ekta Union on 02.09.2019 and instructed the Mumbai Port Trust to deduct the union membership subscription in favour of Mumbai Port Trust Kamgar Ekta Union.

5 Mr.Ramasare J. Yadav retired from the service on 01.06.2021 and thereafter, ceased to be a member of Respondent no.4 Union. The services of Mr.Ram Chandra Nana Katkar were terminated on 21.04.2018 and thereafter, ceased to be a member. The Petitioners have also retired from service. The Petitioners did not have *locus standi* to maintain the present Writ Petition. The Petitioner no.2 also joined the rival union viz. Mumbai Port Trust Kamgar Ekta Union on 02.09.2019. The Petitioner no.1 retired from service on 01.10.2020 and the Petitioner no.2 retired from service on 01.02.2020 and Petitioner no.3 retired recently.

6 Mr.Singhvi, the learned Senior Advocate for the Petitioner submits that the Writ Petition is still maintainable. The position as on the date the Petition was filed, is required to be considered. The learned Senior Advocate to buttress his submissions relies upon the judgments of the Apex Court in the cases of ***Beg Raj Singh vs. State of U.P. and Ors.***¹, ***Pasupuleti Venkateswarlu vs. The Motor & General***

1 (2003) 1 SCC 726.

*Traders*² and *Rajesh D.Darbar and Others vs. Narasingrao Krishnaji Kulkarni and Others*³. The learned Senior Advocate submits that the Writ Petition is pending since the year 2020. Only because the matter is pending and is not decided, the same should not be detrimental to the Petitioners.

7 We have considered the submissions canvassed by the learned counsel for the parties.

8 From the record, it does not appear that the Petitioners at any point of time during the General Body Meeting opposed the amendment. The amendment that was sought to be assailed is as under:

ELECTION OF OFFICE BEARERS

- | | |
|----------------------|---|
| 1. President | <i>The President shall be elected by the General Council from among General Council Members including Honorary Members who is having a minimum 3 years working experience in any of the post at President / Working President / Executive President / General Secretary of the Union.</i> |
| 2. Vice Presidents | <i>2 persons to be elected each from their respective Constituency as notified at the time of election as per the strength of membership, but shall not be more than 6 Vice Presidents.</i> |
| 3. General Secretary | <i>The General Secretary shall be elected by the General Council from among General Council</i> |

2 (1975) 1 SCC 770

3 (2003) 7 SCC 219.

Members including Honorary Members who is having minimum three years working experience as President / Working President / Executive President / General Secretary of the Union.

4. *Secretaries 2 persons each shall be elected from the constituencies mentioned in clause 8(I) and (II) and 3 persons shall be elected from the constituency mentioned in Clause 8(III) above.*

9 Amendment sought to be challenged before Respondent no.1 is dated 26.09.2018. The amendment dated 26.09.2018 to the Constitution of Respondent no.4 Union was assailed by one Mr.Ramasare J. Yadav and Mr.Ram Chandra Nana Katkar on 01.10.2018 and 03.10.2018 by filing complaint/objection before Respondent no.1. Mr.Ramasare J. Yadav joined the rival Union i.e. Mumbai Port Trust Kamgar Ekta Union on 02.09.2019. The services of Mr.Ram Chandra Nana Katkar were terminated on 21.04.2018. As such Mr.Ram Chandra Nana Katkar ceased to be a member of Respondent no.4 Union from 21.04.2018 and Mr.Ramasare J. Yadav from 02.09.2019.

10 The complaint/objection to the amendment was rejected by the Registrar of Trade Union under order dated 01.11.2018. These persons who had filed the objection to the amendment never filed any Writ Petition.

11 On or about 16.01.2020 after lapse of more than one year, the Petitioners filed the instant Writ Petition challenging the order dated 01.11.2018 of the Registrar of Trade Union. As observed above, the Petitioners had never raised any objection before the Registrar of Trade Union nor in the meeting of the General Council. The Petitioner no.2 had already joined the rival Union i.e. Mumbai Port Trust Kamgar Ekta Union on 02.09.2019. Petitioner no.1 retired from the service on 01.10.2020 and the Petitioner no.2 retired from the service on 01.02.2020. It does appear that upon retirement, Petitioners ceased to be the members of the Respondent no.4 Union.

12 The Petitioner no.3 also recently has retired. The same is not disputed. It is also not disputed that upon retirement, the membership of the Union ceases.

13 Today none of the Petitioners are the members of Respondent no.4 Union. As the Petitioners are not the members of the Respondent no.4 Union, they would not be concerned with the amendment to the Constitution of Respondent no.4 Union.

14 Reliance on the judgment referred to above may not enure to the benefit of the Petitioners. The case of **Beg Raj Singh** (Supra) was altogether on different facts. In the said case, the mining lease was

granted to the appellant thereunder for one year. Thereafter renewal was sought for another two years. The same was granted by the Collector. However, the State Government decided to hold an auction of the mining rights setting aside the order of the Collector. The Apex Court held that the Government having incurred obligation to grant lease for three years in accordance with its own policy decision, it cannot decline to enforce the same merely because a little more revenue can be earned. The sand mine was not operated for full three years. As the operation had to be stopped because of the order of the State Government, the Apex Court in view of that, directed that appellant therein should be allowed to operate mine for a full period of three years subject to adjustment of the period for which he had already operated.

15 In case of *Pasupuleti Venkateswarlu* (Supra), the matter was arising out of the provisions of Rent Act wherein the landlord sought eviction on the ground of personal requirement. In that premise, the Apex Court observed that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding

16 In the case of *Rajesh D.Darbar and Others* (Supra), the issue was with regard to legality of the membership, and whether they can participate in the election. The legality of the membership is an

issue which required decision irrespective of the fact whether the period for which the Committee was elected has expired or not. In the said case, elected committee started functioning from October 1996 and subsequent Committees were elected as the term of office was three years. The Apex court observed that the basic dispute about the eligibility of the thirty-eight persons was continued.

17 In the present case, all these Petitioners have ceased to be members of Respondent no.4 Union. The Petitioners want to continue with this petition challenging the amendment to the Constitution of Respondent no.4 for which the Petitioners now would not be affected nor concerned. The Petitioners would now be alien to the Constitution of Respondent no.4. Their rights or interest cannot be held to be jeopardized because of the amendment under challenge of the Constitution of Respondent no.4. The Petitioners would not now be remotely concerned with the constitution of Respondent no.4 and or its amendment. The right to sue that was available to the Petitioners at the time of filing of the petition would not survive because of the changed circumstance i.e. cessation of their membership as members of Respondent no.4 Union. Cause of action now would not subsist. With the passage of time, the cause of action has come to an end.

18 No purpose would be served by continuing with the Writ Petition. Even assuming that the Petitioners on the date of filing of the Writ Petition had some semblance of rights and cause of action to institute the Writ Petition, the same would not subsist upon the Petitioners retiring from service and consequently ceased to be the members of Respondent no.4 Union. It is not the case of the Petitioners that even after retirement, they continued to be the members of Respondent no.4 Union. Now the Petitioners would have no relation with Respondent no.4 *inter alia* would not have any cause of action nor right of action to challenge the amendment to the Constitution of the Union. The amendment made to the constitution of Respondent no.4 now would not apply to the Petitioners nor the Petitioners can claim any right nor will be bound by any obligation under constitution of the Respondent no.4 Union.

19 In light of the above, Writ Petition does not merit consideration and the same is dismissed. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)