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WP.No.24350 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.24350 of 2013

and

M.P.Nos.1 & 2 of 2013

Dakshin Railway Employees' Union,
Affiliated with – CITU Regd No.3068,
Rep.by its General Secretary,
No.27, Mosque Street,
Chepauk, Chennai-110 001.

... Petitioner

Vs

1.Union of India,
Rep.by the Secretary to Government,
Ministry of Railways, Rail Bhavan,
New Delhi-110 001

2.The General Manager,
Southern Railway,
Head Quarters Office,
Park Town P.O.,
Chennai-600 003.

3.The Chief Personnel Officer,
Southern Railway,
Head Quarters Office,
Park Town P.O.,
Chennai-600 003.

4.Secret Ballot Election Committee,
Rep.by its Executive Director,
Rail Bhavan, New Delhi-110 001.



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5.Southern Railway Mazdoor Union,
Rep.by its General Secretary,
Nakkeerar Arangam,
Chennai Egmore, Chennai-600 008.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus after calling for the records of the 3rd respondent proceedings No.P(L) 694/P/SBC/Vol II dated 03.05.2013 and quash the same and consequently direct the respondents 1 to 4 to permit the petitioner to be a representative Union with all rights except fortnightly meeting (FNM) and permanent negotiating meeting (PNM).

For Petitioner	:	Mr.N.G.R.Prasad
For R1 to R3	:	Mr.P.T.Ramkumar
For R4	:	No appearance
For R5	:	Mr.A.Jenasenan

ORDER

This Writ Petition has been filed challenging the order dated 03.05.2013 passed in Proceeding No.P(L) 694/P/SBC/Vol II, by the third respondent, thereby the facilities provided to the petitioner was withdrawn.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 to 3 & 5 and perused the materials available on record.



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3. The petitioner Union is registered under the Trade Unions Act and affiliated to the Centre of Indian Trade Unions (CITU), an All India Organization of Trade Unions. They were representing the employees in the Southern Railway of the second respondent. While being so, the first respondent conducted election, for the purpose of representation, once in six years in all the Zonal Railways. The petitioner Union was recognised by the second respondent in the year 2007. In terms of the recognition, the petitioner was granted various facilities like accommodation, display of the Union notice board, formal negotiating facilities like fortnightly meeting, permanent negotiating meeting, etc. In the said election, the fifth respondent was also recognized and they were also provided with all facilities. During election conducted in the year 2013, the petitioner Union failed to obtain 30% of votes. The fifth respondent obtained 43.6% of total electorate and the petitioner Union obtained 23.73% of total electorate. The petitioner challenged the norms for termination.

4. However, in view of the above minutes, final modalities for holding of secret ballot election came into force for recognition of Trade Unions in Indian Railways in the year 2019. Though six years term of



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the election was over in the year 2019, some of the Trade Unions had challenged the amendment in the Trade Union Act and it is pending.

Therefore, the respondents 1 to 3 could not conduct the election and the fifth respondent is continuing as recognised Union.

5. The learned counsel appearing for the petitioner submitted that atleast now the respondents 1 to 3 be directed to conduct the election since the tenure period of six years was over in the year 2019 itself. He further submitted that in lieu of the interim order passed by this Court, the petitioner Union is permitted to have notice board and flag post. Both the facilities may continue till the election to be conducted by the respondents 1 to 3 herein.

6. The learned counsel appearing for the respondents 1 to 3 herein submitted that if the petitioner Union is permitted to have the notice board and flag post, the other Unions would also claim same facilities. The only recognised Union is the fifth respondent and therefore all the facilities were given to the fifth respondent alone. Therefore, no other Union is entitled to have such facilities, except the recognized Union.



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7. In fact, the Southern Railway Employees Sangh challenged the very same proceedings in W.P.No.12581 of 2008 in which, the petitioner filed counter and stating that the undertaking was required that the results of the secret ballot will be binding on the Union for the purpose of obtaining recognition from the General Manager. The petitioner Union gave the aforesaid declaration and undertaking and only thereafter participated in the election and hence it is not open to the petitioner to claim that even though it has been refused recognition, it should continue to enjoy the facilities available to a recognised Union. Therefore, now the petitioner Union, which contested the earlier writ petition filed by the fourth respondent, seeking the same facilities cannot be granted, since the facilities are available only recognised Union.

8. It is also made clear that the existing recognized trade Unions/Federations shall continue to remain as recognized Unions/Federations (subject to conditions) till election process is completed and its continuance shall depend upon the outcome of the elections as per Section 4(vii) of the final modalities for secret ballot elections for recognition of Unions/federations on Indian Railways. Even as per the new amended final modalities holding of secret ballot elections



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of the year 2019 also states that the existing recognized trade Unions and their federations shall continue to remain as recognized (subject to conditions, if any) till a fresh election process is completed. Therefore, the fifth respondent shall continue to remain recognised till the completion of fresh election. The respondents 1 to 3 are directed to conduct election subject to the result of challenge made to the amendment of Trade Union Act.

9. In view of the above, this Writ Petition lacks merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No

To

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