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W.P. No.26807 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.26807 of 2017

and

W.M.P. No.28523 of 2017

Pond's (India) Ltd. Soap Divisions
Employees Welfare Union,
Rep. by its President Ethirajulu

... Petitioner

vs.

1. The Registrar of Trade Union,
Office of the Registrar of Trade Union,
Labour Department,
2nd Floor,
Gandhi Nagar,
Vazhudavur Road,
Puducherry – 605 007.

2. M/s.Hindustan Unilever Ltd.,
Personal Products Factory,
Rep. by its Factory Manager,
NH-45A Vadamangalam,
Pondicherry – 605 102.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent immediately to conduct election in the petitioner Trade union under his supervision and control to elect new office bearer of the petitioner union for the period from 2017 onwards, so as to recognised them by the 2nd



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respondent for the purpose of signing any settlement with the petitioner union with regard to revision of wage, other issues.

For petitioner : Mr.P.R. Thiruneelakandan
For respondents : R1 – No appearance
Mr.S. Shiva Thanu Mohan
for
M/s.Ramasubramanian & Assoc. for R2

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the 1st respondent to conduct election in the petitioner Trade union immediately under his supervision and control to elect new office bearer of the petitioner union for the period from 2017 onwards, so as to recognise them by the 2nd respondent for the purpose of signing any settlement with the petitioner union with regard to revision of wage, other issues.

2. It is averred that the 2nd respondent Factory was engaged in the business of manufacturing personal care products and the permanent employees employed in the said Factory are the Members of the petitioner union. It is further stated that to resolve certain issues with regard to revision of wages, election was conducted by the petitioner



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union to elect office bearers and last such election was held in the year 2009. Subsequently, due to non acceptance of wage revision, the issue was taken up by the elected office bearers before the Industrial Tribunal. While so, wage settlement was arrived by the office bearers, who were nominated by the 2nd respondent Management, which was forcibly accepted by the Workers. That being so, after completion of tenure of such nominated officer bearers, on 10.09.2017, certain members were unanimously elected as office bearer in the General Body Meeting, whereas the same has not been approved by the 2nd respondent Factory. In such a scenario, it is the duty of the 1st respondent to conduct fair and proper election. By ventilating the said grievance, this writ petition has been filed for issuance of appropriate directions to the 1st respondent to conduct election.

3. Learned counsel for the petitioner submitted that only the elected office bearers can represent the trade union to resolve the dispute viz., negotiation talks with regard to wage revision and other issues between the employer and employee, whereas election was not conducted since 2009. Hence, this Court may issue appropriate directions in this regard.



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4. Per contra, learned counsel appearing for the 2nd respondent / Management submitted his arguments based on the counter that the Management and 197 workmen have entered into a valid wage settlement, whereas the alleged office bearers with an intention to harass the Management have filed this writ petition, which is a baseless allegation. He further submitted that no unfair labour practices have been committed by the 2nd respondent / Management. On the aforesaid score, he prays for dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. It is not in dispute that the members of the petitioner Union are the employees of the 2nd respondent / Management. On perusal of records, it is seen that approximately around 96% of the workers have agreed and signed the wage settlement. Notably, few office bearers who raised allegations against the 2nd respondent / Management have objected to sign the aforesaid wage settlement and knocked the doors of this Court by way of filing this writ petition with the aforesaid prayer.



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Further, it is evident that the alleged office bearers have made claims against the 2nd respondent / Management for the reasons best known to them. To conclude, it is clear that the petitioner approached this Court with unclean hands.

7. For the aforesaid reasons, this Court does not find any merit in this writ petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.08.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
rli

To
1. The Registrar of Trade Union,
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M.DHANDAPANI, J.

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