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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 14320/2023 & CM APPL. 56706/2023**
INDIAN AIRPORTS KAMGAR UNION AND
ANRPetitioner

Through: Mr. S Vijay, Ms. Pooja B Mehta Advs.

versus

DEPUTY REGISTRAR OF TRADE UNIONS
AND ORS

.....Respondent

Through: Mr. Karn Bhardwaj, ASC, GNCTD
along with Mr. Rajat Gaba and Mr.
Shubham Singh, Advs. for R-1.
Ms. Nidhi Raman, CGSC along with
Mr. Devarchan De, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER
02.08.2024

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1. The Court has considered the nature of prayer made in the instant writ petition and has also perused the order dated 07.12.2023, passed by this Court. For the sake of clarity, the said order is reproduced as under:-

"1. Issue notice. Mr. Karn Bhardwaj, learned counsel, accepts notice on behalf of respondent No. 1. Ms. Nidhi Raman, learned Central Government Standing Counsel, accepts notice on behalf of respondent No. 2. Mr. Digvijay Rai, learned counsel, accepts notice on behalf of respondent No. 3. Mr. Sanjay Sharawat, learned counsel, accepts notice on behalf of respondent No. 4.

2. The petitioners' grievance concerns an election held on 28.08.2023, pursuant to which respondent No. 4 was declared as the recognised union of the Airports Authority of India for the period 2023 – 2028.



3. Mr. Yash S. Vijay, learned counsel for the petitioners, draws my attention to a circular dated 17.02.2023, by which trade unions were invited to participate in the election, subject to furnishing an application in the prescribed proforma “along with self-certified copy of latest annual return of their union and election symbol.” According to Mr. Vijay, respondent No. 4 had not submitted the latest annual return of the trade union alongwith the application form and was, therefore, ineligible to participate in the election.

4. Mr. Rai, who appears on advance notice, takes a preliminary objection as to the maintainability of the writ petition and also states that the abovementioned contention is factually inaccurate.

5. The respondents are directed to file their replies within four weeks from today, without prejudice to their contentions with regard to the maintainability of the writ petition. Rejoinders thereto, if any, may be filed within two weeks thereafter.

6. List on 20.03.2024.”

2. Notwithstanding the order directing the respondents to place on record their counter affidavit, the Court is of the considered opinion that the instant writ petition, particularly in light of the nature of relief sought by the petitioners, which essentially stems from an election dispute pertaining to the trade union in question, would not be maintainable.

3. While taking the aforesaid view, this Court, in the case of ***Pradeep Kumar v. Union of India***¹, dismissed the writ petition pertaining to election of a trade union holding that the ordinary civil courts will have the jurisdiction in such matters. The Court reached the said conclusion accentuating three underlying factors i.e., lack of involvement of any public law character, abundance of disputed questions of facts and ubiquity of the view that it is not expedient to invoke writ jurisdiction in trade union disputes. Paragraph no.19 of the said decision reads as under:-

“19. A number of grounds have been raised by way of opposition to the

¹ 2006 SCC OnLine Del 388



entertaining and consideration of the writ petitions including the availability of an alternative remedy by way of an appeal, but I do not propose to go into those issues since the above discussion appears to me to be sufficient to decide this batch of matters. The ubiquitous opinion of High Courts in this country is that trade union disputes are not amenable to writ jurisdiction. Alternatively stated, these types of disputes do not partake of a public law character and are inherently and intrinsically private disputes. I cannot accept the argument of Mr. Maninder Singh that because the Railway Administration is called upon to grant leave and provide other assistance for attendance of union meetings, a public law character is superimposed on the trade union disputes. I also cannot accept that since it is in general public interest that affairs of URMU proceed on a peaceful and smooth pace that inter se trade union disputes would automatically wear the mantle of public law. Having arrived at this conclusion since it is ordinary civil courts which would have jurisdiction in regard to disputes pertaining to elections of a trade union, the appointment of the Commissioner to prepare the lists was without jurisdiction. On the strength of Harshad Chimanlal Modi the fact that all parties had consented to this appointment would not act as an estoppel to the challenge subsequently been mounted against such appointment. The wisdom of leaving this genre of disputes to be adjudicated by civil courts, after recording of evidence, is illustrated from the fact that even though the List has been prepared by the Court Commissioner, a number of serious, not frivolous, objections have been raised against the List. If this Court were to further adjudicate these disputes it would lead to yet another error in the exercise of jurisdiction. The controversies pertaining to the factual matrix are not of a superficial nature, as can be duly decided by the Writ Court. Nor have they been raised only to oust or obstruct the exercise of the extraordinary powers of this Court predicated only on a sham or flimsy denial. On the interplay of three facts viz. absence of public law character, presence of disputed questions of fact and the ubiquitous view that it is not expedient to invoke writ jurisdiction in trade union matters, these petitions must be dismissed.”

[emphasis supplied]

4. In another decision rendered by this Court in the case of **Sanjiv Mukherjee v. Northern Railway**², it was held as under:-

“7. Further, this Court is of the view that disqualification of any office bearer of respondent-Union on the ground of violation of a rule cannot be adjudicated in a writ proceeding. In fact, a trade union dispute or an

² 2013 SCC OnLine Del 3023



election dispute between rival factions of a union do not partake a public law character as they are inherently and intrinsically a private dispute which is not amenable to writ jurisdiction.”

5. In view of the aforesaid, the instant writ petition stands dismissed.
6. Nothing stated hereinabove shall be construed to be a comment on the merits of the case. All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J.

AUGUST 2, 2024/KG