

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2661 of 2015

1. Jayant Kumar Sharma, Son of Late Shiv Charan Sharma at Zerbehra, Post Basudeopur, P.S. Kotwali, District - Munger, P.N. No. 2275
2. Ashok Kumar Son of Late Suresh Prasad Singh at Mughal Bazar, Post Basudeopur, P.S. Kotwali, District - Munger, P.N. No. 2290
3. Anil Kumar Yadav Son of Late Arjun Prasad Yadav at Haji Sujana, Post - Munger, P.S. Kotwali, District - Munger, P.N. No. 1360
4. Sachchidanand Prasad Son of Late Pulakdhari Prasad Yadav at Shankarpur, Post - Shankarpur, P.S. Mufassil, District - Munger, P.N. No. 1493
5. Jai Krishna Mandal Son of Late Bodh Narayan Mandal at Mughal Bazar, Post Basudeopur, P.S. Kotwali, District - Munger, P.N. No. 1404
6. Ajit Kumar Mishra Son of Late Balmiki Mishra at Basudeopur, Post Basudeopur, P.S. Kotwali, District - Munger, P.N. No. 1459
7. Arbind Kumar Sinha Son of Late Surya Narayan Prasad at Basudeopur Kayasth Tola, Post Basudeopur, P.S. Kotwali, District - Munger, P.N. No. 890

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Labour Resources Department, Government of Bihar, New Secretariat, Patna
2. The Labour Commissioner - Cum - Registrar, Trade Union Act, 1926, Bihar Labour Resources Department
3. The Joint Labour Commissioner, Labour Resources Department, Government of Bihar, New Secretariat, P
4. The Indian Tobacco Company Limited ITC , Munger through its Branch Manager
5. Dr. (Prof.) Azfar Shamshi, the President, Munger Tobacco Manufacturing Workers Union, Registration No. 68, M/s I.T.C. Limited, Munger
6. Siyaram Prasad Yadav @ Siyaram Yadav aged 66 years(M), S/o Lakhanlal Yadav, Resident of Village – Shankarpur, P.S. Shankarpur, District Munger

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Ranjan Kumar Sinha Anshuman Singh, Advocates
For the Respondent/s	:	Mr Prabhakar Jha, GP 27 Mr. Shankar Kr. Thakur, AC to GP 27
For the Respondent No.4:		M/s Mrigank Mauli, Sr. Advocate Indrajeet Bhushan Manish Kumar, Advocates
Fro the Respondent No.5:		M/s Rama Kant Sharma, Sr. Advocate Ajit Kumar Sinha, Amresh Kumar, Advocates
For the Intervenor	:	M/s Sharda Nand Mishra



Jitendra Kumar, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 02-05-2025

Re. I.A. No. 1 of 2024

1. I.A. No. 1 of 2024 has been filed by one Siyaram Prasad Yadav @ Siyaram Yadav seeking impleadment as a party respondent in the present writ petition, on the ground that he has been elected as the President of the Tobacco Manufacturing Workers Union (T.M. Workers Union), Registration No. 68 ITC Ltd., pursuant to the election held on 12.03.2023, wherein he and other office bearers were duly elected.

2. Considering the averments made in I.A. No. 1 of 2024 and in the interest of justice, this Court deems it appropriate to implead Siyaram Prasad Yadav @ Siyaram Yadav as respondent No. 6 in the present writ petition.

3. Accordingly, I.A. No. 1 of 2024 is allowed.

4. The petitioner has filed the present Writ application for the following reliefs:



“i. For issuance of a writ in the nature of mandamus directing the respondent nos.2 to 6 to hold the AGM of the Union bearing Registration No.68 which has completed its 3 years term on 23.05.2014. The election of which should have been conducted by the respondents mentioned above prior to the expiry of term,

(ii) For directing the respondent Company to declare holiday for holding election as provided in the constitution under the supervision of the respondent- Labour Superintendent or Labour Officer or Government Officers,

(iii) For quashing the letter no.3420 dated 17.11.2014 issued by the Labour Commissioner-cum-Registrar, Labour Union, Bihar (Respondent no. '2') by which he has refused and direct to hold the AGM and election of Munger Tobacco Manufacturing Workers Union, Basudeopur, Munger declaring it as time barred without any provisions thereof and,

iv) Further, pray for issuance of any other appropriate writ(s),



order(s), direction(s) and/or relief(s) for which they are entitled to in the given facts and circumstances of the case.”

5. The main prayer in the present writ petition is for issuance of a direction to the respondents to conduct the election of the Munger Tobacco Manufacturing Workers Union, Registration No. 68, Indian Tobacco Company Ltd., Munger, forthwith, for the purpose of electing its representatives, in accordance with law and under the provisions of the Trade Unions Act. It is averred that the term of the President, i.e., respondent No. 5, Dr. (Prof.) Azfar Shamshi, and other office bearers of the said Union expired in the month of May, 2014, and that the continued delay, in holding elections depriving the workers of their lawful welfare benefits to which they are legally entitled.

6. For the purpose of disposal of the present case, it is relevant to note that through I.A. No. 1 of 2024, the applicant, (respondent No. 6) Siyaram Prasad Yadav @ Siyaram Yadav, has brought on record, subsequent developments



along with annexures issued by the Labour Commissioner-cum-Registrar, Trade Unions, Government of Bihar. It is submitted that in accordance with Rule 5(c) of the relevant Rules, the Executive Committee members had made requisition notice to the then President, respondent No. 5 (Dr. Azfar Shamshi), to convene the Annual General Meeting. Upon his failure to do so within seven days, thereafter, a joint notice was issued by the Executive Committee to give 15 days' notice to all union members and a copy also sent to the Branch Manager, ITC Ltd., Munger. Due to the continued inaction of respondent No. 5, elections of the Munger Tobacco Manufacturing Workers Union (Reg. No. 68, ITC Ltd., Munger) was scheduled and held on 12.03.2023, as per the letter dated 05.03.2023 (Annexure I/2). A general notice was also issued which published the date of nominations, i.e., on 07.03.2023, scrutiny and inquiry to the nomination paper on 09.03.2023, returning nomination paper by 11.03.2023 upto 2:00 PM, and publication of the final candidate list



on 11.03.2023 at 5:00 PM.

7. It is further submitted that the election results were published on 12.03.2023 (Annexure I/4), and the names of elected office members of the said Trade Union was communicated to all concerned authority including the Branch Manager, ITC Ltd., Basudevpur, Munger. Subsequently, the applicant (now respondent No. 6) sent an application on 17.03.2024 (Annexure I/5) confirming the names of the newly elected office members. Additionally, an RTI application was filed by one of the union members, Sri Sanjit Kumar Pandey, in response to which, the Labour Resources Department, Government of Bihar, intimated the names of the newly elected President and other office bearers.

8. It is also submitted that both respondent No. 5 and respondent No. 6 submitted their respective annual returns to the Labour Commissioner-cum-Registrar, Trade Union, Bihar. Upon consideration, the authority, by order dated 23.01.2024 (Annexure I/7), held that the report



submitted by respondent No. 5 was false and was in violation of Section 28(1) of the Trade Unions Act, 1926, as it contained incorrect information and omitted the names of office bearers. Conversely, the annual return submitted by respondent No. 6 was found to be correct and in compliance with the law.

9. It is submitted that some members of the TM Works Union (Registration No. 68), Basudevpur, Munger, filed a complaint before the Labour Commissioner-cum-Registrar, Trade Unions, Bihar, and the Branch Manager, ITC Ltd., Basudevpur, Munger, alleging that respondent No. 5, Md. Azfar Shamshi, was not permitting eligible factory workers to become union members. Acting on the complaint, a report was called from the Superintendent of Police (S.P.), Munger, who in turn directed the Officer-in-Charge, Basudevpur, to conduct an inquiry. Upon inquiry, it was found that, under Section 5(c) of the Act, a requisition notice was submitted to Prof. Azfar Shamshi to call for a general meeting, which was not complied.



Following the lapse of the statutory period of 15 days elections were conducted on 12.03.2023 in the presence of an Election Officer and Supervisor. The result declared Siyaram Yadav as President along with ten other elected office bearers, and the outcome was communicated to all concerned authorities. Subsequently, by letter dated 22.11.2023 (Annexure I/9), issued under the signature of the Deputy Registrar, Labour Unions, Labour Resources Department, Bihar, confirmed the validity of the election held on 12.03.2023 based on the report submitted by the S.P., Munger vide Memo No. 394 dated 05.08.2023.

10. It is further submitted that respondent No. 5, aggrieved by the order (Memo No. 459 dated 23.01.2024), filed a review application. Upon consideration, it was found that Dr. Azfar Shamshi was neither a general nor an honorary member of the Trade Union as per Section 22 of the Trade Unions Act, 1926. Thus, His claim as elected President was found contrary to the Act. The annual report submitted by him was



again rejected by order dated 09.08.2024 (Memo No. 4291) (Annexure I/10), and the communication was sent to intervenor-respondent No. 6. Additionally, a social worker, namely, Manoram Majumdar sought information under the RTI Act and the S.P., Munger, informed vide letter dated 15.06.2023 about the election which was held on 12.03.2023 and confirmed the election of Siyaram Yadav as President and other office bearers.

11. A counter affidavit has also been filed on behalf of the State of Bihar (respondent Nos. 1 to 3). In Paragraph No. 7 of the said affidavit, it is stated that several representations were received by the Department in relation to the present dispute, including those representations submitted by the petitioners. After due examination of all documents available on record, along with the representations submitted by the petitioners, the Labour Commissioner-cum-Registrar, Trade Unions, Bihar (respondent No. 2), passed a reasoned and speaking order contained in Memo No. 3420 dated 17.11.2014. By the said



order, the claim of the petitioners for holding elections of the Unions was rejected, relying on the judgment of the Division Bench of the Hon'ble Patna High Court dated 10.02.1995 passed in **CWJC No. 6834 of 1994 (Bokaro Steel Workers Union vs. The State of Bihar & Others)**, reported in **(1995) 1 PLJR 400**. Wherein, it was held that there is no provision under the Trade Unions Act, 1926, which empowers the Registrar to exercise any superintendence or control over the internal affairs or day-to-day functioning of a trade union. The order dated 17.11.2014 was duly communicated to both Unions of ITC, Munger, and the same is under challenge before this Hon'ble Court.

12. It is submitted by Learned counsel for the State that the writ petition itself is not maintainable as per the Division Bench Judgment of this Court passed in **Bokaro Steel Workers Union (supra)**. Hon'ble Division Bench has held in paragraph No. 22 as follows:

"22. On an examination and



analysis of the Patna decision (*Mukund Ram Tanti's case*), the Allahabad, Andhra and the Madras decisions, I come to the following conclusions:

(i) In a dispute between two rival factions claiming to be the office-bearers of a trade union, it is open to the Registrar to hold an enquiry for the purpose of maintaining and updating the registers required to be maintained under Section 8 of the Act.

(ii) His decision in this regard shall neither confer any right on any person or group of persons nor divest any person or group of persons of any lawful rights.

(iii) Consequently the Registrar has no authority or power to issue any direction asking/advising the Labour Department of the Government or the employer to recognize and treat any particular person or group of persons as the duly elected office-bearers of the union in dealing with that union.

(iv) The Registrar, Trade Unions, has no authority or power to direct the holding of election of the office-bearers of a union under his own



supervision or under the supervision of his nominee.

(v) In the absence of any provisions in the Trade Unions Act, any dispute of his kind can only be resolved by means of a suit filed before a civil Court.

(vi) The adjudication in a suit at least in this State is normally a slow and time consuming process and does not constitute a wholly satisfactory remedy for resolving the dispute.

(vii) The Legislature will, therefore, be well advised to address itself to this lacuna in the Trade Unions Act and to take steps to remedy it which has been long over due”

13. In the light of the aforesaid judgment, it is clear that the Registrar is not empowered to the interfere into the affairs of Union and he can only hold an enquiry for the purpose of maintaining and updating the register as required under Section 8 of the Act and such disputes can only be decided by suit before a Civil Court.

14. The counter of respondent No. 6



disclose that the last election of the Munger Tobacco Manufacturing Workers Union Registration 68 Indian Tobacco Company Ltd., Munger was held on 12th March, 2023, for a tenure of three years. However, the counter of Respondent No. 5 disclose that election was held on 02.10.2024.

15. In view of the aforesaid discussion, this Court is of the considered opinion that the next election shall be conducted in accordance with law. Furthermore, it is observed that the Registrar as well as the Union is not empowered to interfere with the internal management and affairs of ITC Ltd.

16. With the above observations, the writ petition stands disposed of.

17. Interlocutory Application(s), if any, shall stand disposed of.

Spd/-

(G. Anupama Chakravarthy, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.05.2025
Transmission Date	

