

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1028 of 2015

-
1. Rajeev Ranjan Sinha Son of Chhahtoo Mahto Resident of Mangal Bazar, P.S. Kotwali, Distt. - Munger
 2. Kamta Prasad Sah Son of Jamuna Sah Resident of Mohalla - Kasim Bazar, P.S. Kasim Bazar, Distt. - Munger

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Labour Resource Department, Government of Bihar, New Secretariat, Patna.
2. The Labour Commissioner - Cum - Registrar, Trade Union Act, 26, Bihar Labour Resources Deptt., Govt. of Bihar, New Secretariat, Patna
3. The Joint Labour Commissioner, Labour Resources Department, Govt. of Bihar, New Secretariat, Patna
4. The District Magistrate, Munger
5. The Assistant Labour Commissioner, Labour Resources Department, Munger
6. The Branch Manager, Indian Tobacco Company Limited Munger
7. Dr. Prof. Azfar Shamshi, the President, Munger, Tobacco Manufacturing Workers Union, Registration No. 68 I.T.C. Ltd. Munger

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anshuman Singh, Advocate
For the State	:	Mr. S.P. Singh, G.A. 3
	:	Mr. Prabhakar Jha, G.P. 27
For Resp. No. 6	:	Mr. Alok Kumar Sinha, Advocate
	:	Mr. Indrajeet Bhushan, Advocate
	:	Mr. Manish Kumar, Advocate
For Resp. No. 7	:	Mr. Ramakant Sharma, Sr. Advocate
	:	Mr. Prashant Sinha, Advocate
	:	Mr. Ajit Kumar Sinha, Advocate
For Intervener Resp.	:	Mr. Shard Nand Mishra, Advocate
	:	Mr. Dhandev Kumar, Advocate
	:	Mr. Atul Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 07-01-2025

1. The Writ petition is filed for issuance of Writ,
order or direction or directions in the nature of Mandamus



commanding the respondents to hold the election of the Munger Tobacco Manufacturing Workers Union, Registration No. 68 Indian Tobacco Company Ltd., Munger forthwith, to elect their representatives in accordance with law under the provisions of the Trade Union Act as the terms of President i.e. respondent No. 7 (Dr. Pr. Azfar Shamshi) and the office bearers of the said Union expired in the month of May, 2014, so that the workers be not deprived of their welfare benefits to which they are legally entitled as per law.

2. During the course of arguments, the Learned Senior counsel, Mr. Ramakant Sharma, appearing for Respondent No. 7, reported to the Court that there are two petitioners in the present Writ Petition. The second petitioner had retired and is no more. The first petitioner also retired from service and contended that the Writ petition is not maintainable. It is specific contention of the Learned Senior counsel for the 7th respondent that the Writ petition was filed in the year 2015, and the respondent no. 7 was re-elected in the year 2024.



3. On the other hand, it is contended by the Learned counsel for the petitioner that the prayer does not become infructuous, though the petitioner retired from service, as no proper election was conducted as per the Trade Union Act.

4. It is also pertinent to mention that I.A. No. 03 of 2024 was filed by the intervener-respondent, contending that he was elected in the year 2023.

5. On perusal of the prayer, it is evident that the petitioners have filed the Writ petition commanding the respondents to conduct election as per the Trade Union Act. However, petitioner No. 1 got retired from service, and the second petition passed away during the pendency of the Writ petition.

6. It is also brought to the notice of this Court by the Learned Senior Counsel for the respondent No. 7 that the Writ petition itself is not maintainable as per the Division Bench Judgment of this Court in the case of ***Bokaro Steel Workers Union Vs. State of Bihar*** reported



in (1995) 1 PLJR 400 at paragraph no. 27 the Hon'ble Division Bench of this Court has held as follows:-

“27. On an examination and analysis of the Patna decision Mukund Ram Tanti case (vide supra), 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 S. 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, 1926, 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.”

The Lordships in the above mentioned case have specifically held that the legislature will therefore, be well



advised to address itself to this lacuna in the Trade Unions Act and take steps to remedy it, which has been long overdue” because the adjudication in a suit, in the State of Bihar is normally slow and time consuming process and does not constitute wholly satisfactory remedy for resolving such dispute.

7. It is contended by the Learned Senior counsel that, inspite of direction of this Court, the legislature has not taken any step to make necessary law for resolving such disputes and further contended that as per the judgment of the Hon’ble Division Bench of this Court, the dispute has to be resolved only by the Civil Court and not by the High Court.

8. The Learned counsel, Mr. Alok Kumar Sinha, for the ITC contended that the entire dispute is between members of the Union and their union leaders. However, the ITC was made a party though the dispute ought to be resolved among the members themselves while ensuring the protection of the industry and the welfare of the workers.



9. Considering the entire material on record, this Court is of the considered view that the fundamental rights of the petitioner are not at all infringed, and it is an inticy dispute between the parties, who are members of the industry and the Trade Union.

10. As the second petitioner is no more and first petitioner retired from service nothing remain for adjudication, therefore, the Writ petition is dismissed.

11. All the Interlocutory Application filed by the petitioners, including the intervening petition filed by one of the parties contending that they were elected member in the year 2023 shall stands closed.

(G. Anupama Chakravarthy, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.02.2025
Transmission Date	N/A

