

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 10299 of 2025

Asansol-Burnpur-Kulti Metal & Engineering Workers Union & Ors.
Vs
Union of India & Ors.

For the Petitioners : Mr. Soumya Majumder, Sr. Adv.
Ms. Sanjukta Dutta,
Mr. Kinnor Ghosh.

For the State : Mr. Ushanath Banerjee, Sr. AGP
Mr. Biswabrata Basu Mullick,
Mr. Debangshu Dinda.

For the Respondent no. 8 : Mr. Srijib Chakraborty,
Mr. Anindya Ghosh,
Mr. Apurba Ghosh,
Mr. Debdut Banerjee.

For the Respondent no. 9 : Mr. Susanta Pal,
Mr. Debasish Kar.

For the SAIL : Mr. Arjun Roy Mukhrjee,
Mr. Prantik Garai,
Ms. Supriya Dubey.

Hearing concluded on : 27.08.2025

Judgment on : 24.09.2025

Shampa Dutt (Paul), J.:

1. The writ application has been preferred praying for review of an order dated 25th February, 2025 passed in WPA 27274 of 2024 and challenging the notices dated 22nd April, 2025, minutes of meeting dated 28th April, 2025, the election schedule notice dated 28th April, 2025 and all processes in connection with secret ballot election for ISP Burnpur.
2. The petitioner's case is that there are 3700 (approximately) permanent workmen in the factory of Burdwan. There has never been an election of trade unions for the purpose of recognition under the Trade Unions Act, 1926 in relation to the factory of ISP, Burnpur.
3. All of them have their respective memorandum, constitution and bye laws with objects categorically mentioned therein. **None of the objects of the trade unions, be it the petitioners or the respondent trade unions herein, have any correlation or object which spreads beyond the territory of the State of West Bengal.** The writ petitioners' trade unions and the respondent nos. 8 to 11 are the trade unions who negotiate with the management for arriving at industrial settlements to regulate the service conditions of workmen in relation to the factory of ISP.
4. The petitioner no. 1 has 600 members, the petitioner no. 2 has 470 members and the petitioner no. 3 has 809 members.
5. **All the trade unions had been certified and registered under the provisions of the Trade Unions Act, 1926 by the Government of West Bengal.** All returns, forms and compliances are made by the petitioners' trade unions, and reportedly by the respondent trade unions

under the laws of the State of West Bengal. The constitution and bye laws of the petitioners' trade unions do not have any object spreading outside the territory of the State of West Bengal. In fact, ISP was the sole factory of ISCO Limited and therefore the question of objects and activities of the trade unions spreading over various 'States' does not arise at all.

6. The annual returns and forms evidencing the membership and all compliance have been made by the petitioners as also the private respondent trade unions with the Government of West Bengal recognized as the appropriate Government in relation to the Trade Unions Act, 1926.
7. On 26th July, 2024, the office of the Chief Labour Commissioner (Central) had written to the Burnpur Ispat Karmachari Sangh (BMS) regarding recognition of trade union in SAIL-ISP through secret ballot election, rejecting the claim of such trade union to hold the same, due to lack of consent of the management and remaining other unions.
8. On 22nd April, 2025, the office of the Deputy Chief Labour Commissioner (Central) had written to the Registrar of Trade Unions, Government of West Bengal for verification of membership of trade unions operating in ISCO Steel Plant with names of five trade unions mentioned therein and also to verify, inter alia, the number of membership as per latest annual return submitted by the unions and to issue necessary certificates in that regard. The said communication had referred to an order dated 25th February, 2025 passed by the Hon'ble

Calcutta High Court in WPA 27274 of 2024. The petitioners were not aware of this communication dated 22nd April, 2025 till 28th April, 2025.

- 9.** On 28th April, 2025, a meeting was held in the office of the Deputy Chief Labour Commissioner (Central) at Asansol, on the basis of an email communication made to the unions of ISP through notice dated 22nd April, 2025. In the said meeting held on 28th April, 2025, the petitioners came to know of such letter dated 22nd April 2025 as mentioned before and the petitioners were communicated of the order passed by this Hon'ble Court on 25th February, 2025.
- 10.** On the very same day, this is on 28th April, 2025, the Regional Labour Commissioner (Central) at Asansol and Returning Officer declared election schedule for conducting secret ballot in SAIL-ISP Burnpur.
- 11.** The petitioners having come to know of such election procedure, requested for copies of the writ petition and orders passed by this Hon'ble Court. Accordingly, they came across a writ petition being WPA 27274 of 2024 filed by Burnpur Ispat Karmachari Sangh, from the office of the Deputy Chief Labour Commissioner (Central).
- 12.** The petitioners have thereafter made a representation on 29th April, 2025 to the Registrar of Trade Unions, Government of West Bengal objecting to the procedure of holding such election.
- 13.** The writ petition in WPA 27274 of 2024, did not implead the petitioners or the other trade unions in the writ petition and even after disposal of the writ petition, they had not served copies of the order or copies of the writ petitions on the petitioners or any other trade union operating in the factory. As such, the petitioners were completely in the dark as

regards holding of secret ballot election in the factory and hence, the writ application.

14. Affidavits have been exchanged, wherein the respondent no. 8 has challenged the maintainability of the writ application on the ground that the prayer for review of the order dated 25th February, 2025 passed in WPA 27274 of 2024 is not maintainable on the ground that the said order of which review is prayed for was passed in a different case (writ).
15. It is further stated that after the declaration of election and announcement of election schedule on 28th April 2025, all the trade unions had participated in nomination process on 8th May 2025 and on 13.05.2025, the list of the nomination valid after scrutiny was published before the order of 8th August 2025 was published in server.
16. The petitioner has stated that the other trade unions in the organization have no objection to the cause of the writ petitioners. Therefore, out of the seven operating trade unions in the Burnpur factory, only one trade union is opposing the cause of the writ petitioners. It was also the sole writ petitioner in WPA 27274 of 2024 in relation whereof the order dated 25th 2025 was passed.
17. Parties have filed their respective written notes.
18. The petitioners have relied upon the judgment of the Supreme Court in ***Shivdev Singh & Ors. vs. State of Punjab & Ors.*** reported in **1961 SCC OnLine SC 29 (Para 5, 7, 9 and 10)**, wherein the Court held as follows:-

“10. The other contention of Mr Gopal Singh pertains to the second order of Khosla, J., which, in effect, reviews his prior order. Learned counsel contends

*that Article 226 of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. **It is sufficient to say that there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it.** Here the previous order of Khosla, J., affected the interests of persons who were not made parties to the proceeding before him. It was at their instance and for giving them a hearing that Khosla, J., entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no right to apply for review because they were not parties to the previous proceedings. **As we have already pointed out, it is precisely because they were not made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was entertained by Khosla, J.***

19. **In the present case too,** the petitioners, whose interests have been affected by the order under review, were not made parties to the previous proceedings and as such there has clearly been violation of principles of natural Justice and to prevent miscarriage of Justice, **the review in the present writ application is maintainable.**
20. The Judgment of the Calcutta High Court (Division Bench) in ***Bappaditya Mandal vs. State of West Bengal & Ors., 2017 SCC OnLine Cal 10090***, Para 11, also supports the petitioners' case for review, in this writ application:-

“11. In a situation like the present one, where right of an individual who is not a party to a writ petition is affected by reason of any order or

direction having been passed on such writ petition, he has two options:—

1. to approach the appellate court with an application for leave to appeal; or

2. to apply before the writ court for review of its order. Such review could be asked for either on the basis of a fresh writ petition [(as in Shivdeo Singh (supra)) or even by filing a review petition.]

- 21.** So also at Para 9 in the Judgment of the Calcutta High Court (Single Bench) in **Sri Prabir Agasty & Ors. vs. The State of West Bengal & Ors.** reported in **2018 SCC OnLine Cal 1661**, wherein the Court held as follows:-

“9. A Writ Court would be justified in reviewing an order passed by a coordinate bench having regard to its plenary powers, for end of justice and to prevent abuse of process of law as well as of the Court. On the strength of the authorities of Shivdeo Singh (supra) and Smt. Diblu Naskar (supra), it can be held that, a writ petition which may result in reviewing an order passed by a coordinate bench in another writ petition, is maintainable. The present writ petition is, therefore, held to be maintainable.”

- 22.** The contesting respondent no. 8, has strongly relied upon Para 11 in the Judgment of the Supreme Court in **Ramchandra Sankar Deodhar & Ors. vs. State of Maharashtra & Ors., 1974 (1) SCC 317, Para 11:-**

“11. The respondents then contended that though the petitioners were not parties to the petition in Kapoor case some of the respondents in that petition were directly recruited Tehsildars like the petitioners and the dispute of directly recruited Tehsildars as a class was agitated in that case and decided and consequently if the judgment of the Bombay High Court in regard to such dispute was incorrect, the petitioners could always apply for a review of that judgment, as did the parties in Shivdeo Singh v. State of Punjab [AIR 1963 SC 1909] . The petitioners had this alternative legal remedy of review available to them, and there was no reason why, instead of

*pursuing that remedy, the petitioners should have filed the present petition under Article 32. This contention is also without force, and for three very good reasons. In the first place, it is difficult to see how the petitioners could have applied for review of the judgment of the Bombay High Court in Kapoor case. **The petitioners were not persons directly and immediately affected by the judgment and it could not be said that they were necessary parties to the petition who should have been heard before the judgment was given, as was the case in Shivdeo Singh v. State of Punjab.** The petitioners had, therefore, no locus to apply for review of that judgment. Secondly, the subject-matter of the present petition is, barring only one question which is common, namely, the question as to the validity of the second proviso to Rule 1 of the Rules of July 30, 1959, wholly different from that of the petition in Kapoor case and asking for review of the judgment in Kapoor case would be no remedy at all so far as the reliefs claimed in the present petition are concerned. Lastly, the remedy by way of review of a judgment given in another case in which the petitioners are not parties can hardly be said to be an adequate alternative legal remedy available to the petitioners.”*

23. The said Judgment relied upon **Ramchandra Sankar Deodhar (supra)** only **further strengthens the case of the petitioners** in respect of their prayer for review by way of this writ application, because as in the present case, the Supreme Court held, such writs were maintainable where the petitioners were persons directly and immediately affected by the judgment and it could be said that they were necessary parties to the petition, who should have been heard before the judgment was passed in the earlier writ application.
24. Thus, in view of the judgments as discussed above, the Court finds that the petitioners were necessary in the proceeding WPA 27274 of 2024 in which the order dated 25th February, 2025 under review was passed and

as principle of natural justice has been violated and to prevent miscarriage of justice, the prayer for review in the present writ is required to be heard, the same being maintainable.

25. The next contention of the respondent no. 8, is that as the election process has already commenced and the petitioners have also participated, they are estopped from challenging the said election.
26. Reliance has been placed in the judgment of ***N.P. Ponnuswami vs. The Returning Officer, Namakkal Constituency, Namakkal & Ors.*** reported in **(1952) 1 SCC 94, Para 15.**
27. The petitioners' contention is that having already preferred the writ application, the petitioners filed their nominations, without any prejudice to their rights and contentions, uncertain and fearing, that the election process might proceed uncontested.
28. The petitioners and the respondent nos. 6 and 7 supporting each other submit that the Supreme Court in:-

- i. In ***Union Territory of Ladakh & Ors. vs. Jammu and Kashmir National Conference & Anr.*** reported in **2023 SCC OnLine SC 1140, Para 37 and 39**, held:-

"37. We would indicate that the restraint, self-imposed, by the Courts as a general principle, laid out in some detail in some of the decisions supra, in election matters to the extent that once a notification is issued and the election process starts, the Constitutional Courts, under normal circumstances are loath to interfere, is not a contentious issue. But where issues crop up, indicating unjust executive action or an attempt to disturb a level-playing field between candidates and/or political parties with no justifiable or intelligible basis, the Constitutional Courts are required, nay they are duty-bound, to step in. The

reason that the Courts have usually maintained a hands-off approach is with the sole salutary objective of ensuring that the elections, which are a manifestation of the will of the people, are taken to their logical conclusion, without delay or dilution thereof. In the context of providing appropriate succour to the aggrieved litigant at the appropriate time, the learned Single Judge acted rightly. In all fairness, we must note that the learned ASG, during the course of arguments, did not contest the power per se of the High Court to issue the directions it did, except that the same amounted to denying the Appellants their discretion. As stated hereinbefore, we are satisfied that in view of the 1968 Order, the Appellants' discretion was not unbridled, and rather, it was guided by the 1968 Order.

39. This case constrains the Court to take note of the broader aspect of the lurking danger of authorities concerned using their powers relating to elections arbitrarily and thereafter, being complacent, rather over-confident, that the Courts would not interfere. The misconceived notion being that in the ultimate eventuate, after elections are over, when such decisions/actions are challenged, by sheer passage of time, irreversible consequences would have occurred, and no substantive relief could be fashioned is just that - misconceived. However, conduct by authorities as exhibited herein may seriously compel the Court to have a comprehensive re-think, as to whether the self-imposed restrictions may need a more liberal interpretation, to ensure that justice is not only done but also seen to be done, and done in time to nip in the bud any attempted misadventure. We refrain from further comment on the Appellants, noting the pendency of the contempt proceeding.”

ii. In *Rai Sahib Ram Jawaya Kapur & Ors. vs State of Punjab*,

1955 SCC OnLine SC 14, Para 12, the Supreme Court held:-

“12. The other case [Attorney General for Victoria v. Commonwealth, (1935) 52 CLR 533] is of an altogether different character and arose in the following way. The Commonwealth Government had established a clothing factory in

Melbourne for the purpose of making naval and military uniforms for the defence forces and postal employees. In times of peace the operations of the factory included the supply of uniforms for other departments of the Commonwealth and for employees in various public utility services. The Governor General deemed such peacetime operations of the factory necessary for the efficient defence of the Commonwealth inasmuch as the maintenance intact of the trained complement of the factory would assist in meeting wartime demands. A question arose as to whether operations of the factory for such purposes in peace time were authorised by the Defence Act. The majority of the Court answered the question in the affirmative. Starke, J. delivered a dissenting opinion upon which Mr Pathak mainly relied. The learned Judge laid stress on Section 61 of the Constitution Act according to which the executive power of the Commonwealth extended to the maintenance of the Constitution and of the laws of the Commonwealth and held that there was nothing in the Constitution or any law of the Commonwealth which enabled the Commonwealth to establish and maintain clothing factories for other than Commonwealth purposes. The opinion, whether right or wrong, turns upon the particular facts of the case and upon the provision of Section 61 of the Australian Act and it cannot and does not throw any light on the question that requires decision in the present case.”

- 29. Thus, so also in the present case,** the issues indicate unjust executive action without any justifiable basis and as such this Court is required to step in and election process herein, is required to be interfered with, considering that **the basis of the election process being set in motion was the order obtained behind the back of the petitioners (not being made parties), whose interest has been prima facie effected.**

30. Finally, the contention of the petitioners is that the order dated 25th February, 2025 passed in WPA 27274 of 2024, is required to be reviewed considering that the said order has been passed at the behest of the respondent no. 8, who has obtained the same behind the back of the petitioners by misleading the Court and thus leading to an error apparent on the face of the order.

31. The respondent nos. 6 & 7, who support the case of the petitioners submit that:-

- (i) Despite there being 7 (Seven) registered Trade Unions (including the petitioner in WPA 27274 of 2024) in “SAIL-ISP Burnpur, SAIL-ISCO Steel Plant” situated and **registered at Burnpur**, other 6 Trade Unions, whose rights were intended to be prejudiced and adversely affected and being vital parties as per Section 28B of the “Trade Unions Act, were not made parties. The Registrar of Trade Unions, West Bengal being the “Appropriate Authority” under the statute was also not made party to the writ petition.
- (ii) Irrespective of “SAIL-ISP Burnpur, SAIL-ISCO Steel Plant” is part of SAIL, its **“Establishment”** is situated in the “local Area” of Burnpur (as defined in Section 2(aaa) of the Trade Unions Act (As per West Bengal Amendment Act, 1983) and is **“registered and licensed”** to operate by the “Directorate of Factories, **Govt. of West Bengal**” in terms of the Factories Act.

(iii) The **“Head Offices”** of all the Trade Unions including the respondent no. 8 (the writ petitioner in WPA 27274 of 2024) are also situated in the ‘local area’ of Burnpur in the State of West Bengal, with their respective objects and functions, limited within the said local area. All of them are also **“registered”** in West Bengal **under the Registrar of Trade Unions, West Bengal** and regularly submit returns as required under **Section 28** of the Trade Unions Act.

32. It is further stated that:-

- (a) Section **2(aaa)** (incorporated by West Bengal Amendment Act 1983) defines the “Local Area”. Section 2(d) defines “registered office” to mean the “Head Office”, whereas Sections 2(e) & 2(f) define the “Registered Trade Union” and “Registrar” respectively meaning thereby the “Trade Union” registered under the Registrar of Trade Unions appointed by the appropriate Government, under Section 3 in relation to any Trade Union having “head or registered office” situated in the State of West Bengal.
- (b) Section **2(cc)** defines ‘Recognised Trade Union’ to be a Trade Union or a group of Trade Unions forming a joint bargaining council recognized under the Amendment Act as a bargaining agent.
- (c) For effective process of recognitions of the Trade Unions as “Bargaining Agent” in free and fair manner, **Chapter IIIA** inserted under the Trade Unions Act. **Section 28B(1)** provides that on receipt of application for recognition of a Trade Union as the

Bargaining Agent, the Registrar shall initiate enquiry for due ascertainment on notice to the other Trade Unions functioning in the Establishment in a local area. **Section 28B(4)** expressly stipulates that if there are more than one applicant Trade Union of the Establishment in the local area, the Registrar of Trade Unions, shall arrange to hold an 'election' by secret ballots in the prescribed manner and the Union securing largest number of votes cast by the workmen employed shall be the sole bargaining agent.

(d) Government of West Bengal enacted specific **"West Bengal Trade Unions Rules 1998"** for holding 'elections' in terms of Section 28B(4) in free, fair and transparent processes, akin to general "election laws".

33. It is further stated that irrespective of an Industrial Body being an agency of the Central Government, if an "Establishment/Unit" is situated and functional in any 'local area' of the State, the "Appropriate Government" in respect of the "Establishments" of the Central Government companies related to "Labour Laws" shall be the "State Government". Reliance is placed on **"Food Corporation of India Workers Union vs. Food Corporation of India"** reported in **(1985) 2 SCC 294** which has been referred to and relied upon by the Constitutional Bench of the Hon'ble Apex Court in **"Steel Authority of India & Ors. vs. National Union Waterfront Workers & Ors."** reported in **(2001) 7 SCC 1**.

34. The respondent no. 8 has relied upon the judgments in ***Steel Employees Association & Anr. vs Union of India & Ors, in W.P. (C) No. 13683 of 2014, decided on 18.03.2015, Orissa High Court, Cuttack.*** The said judgment is not applicable to the facts and circumstances in the present case.

35. Thus, from the materials on record, the following is evident:-

(i) Admittedly, the petitioners were necessary parties in WPA 27274 of 2024.

(ii) **The activities of the Trade Unions in the present case, are all confined to the State of West Bengal and thus the ‘Appropriate Authority’ to conduct the election in this case is the “State Government”.**

(iii) **Section 2 of the Trade Unions Act, 1926 defines:-**

*“In this Act “the appropriate Government” means, in relation to Trade Unions **whose objects are not confined to one State**, the Central Government, and in relation to other Trade Unions, the State Government, and, unless there is anything repugnant in the subject or context...”*

(iv) **Section 2(f) of the Trade Unions Act, 1926, Registrar means:-**

“Section 2(f)“Registrar” means—

(i) a Registrar of Trade Unions appointed by the appropriate Government under section 3, and includes any Additional or Deputy Registrar of Trade Unions, and

(ii) in relation to any Trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated.”

- 36.** The fact that the activities of all the concerned Trade Unions in the present case was **confined within the State (West Bengal)**, was not only suppressed by the respondent no. 8 herein/petitioner in WPA 27274 of 2024, but also not brought to the notice of the Court by the learned counsel, for Steel Authority of India, who in the present case supports the petitioners along with respondent nos. 6 & 7 leading to the necessity to review the order dated 25.02.2025.
- 37.** Respondent no. 8 also could not produce any document to show that any of the unions herein have any wing or activities in any other State outside Bengal.
- 38.** Accordingly, the order dated 25.02.2025 passed in WPA 27274 of 2024 is reviewed and the said order stands modified to the extent that **appropriate authority thus being the State Government**, the respondent nos. 6 and 7 shall proceed with the election on conducting a fresh verification process for the purpose of recognition of Trade Unions and make all endeavour to complete the process preferably within **three months** from the date of communication this order, considering that the elections in this case, has been stalled for a long period causing prejudice to its employees/workers.
- 39.** Consequently, the notice dated 22nd April, 2025, minutes of meeting dated 28th April, 2025, the election schedule notice dated 28th April, 2025 and all processes therein, in connection with secret ballot election for ISP Burnpur, **are hereby quashed and set aside**, on the order dated 25.02.2025 passed in WPA 27274 of 2024 **being reviewed**.
- 40. The writ application is allowed.**

- 41.** There will be no order as to costs.
- 42.** Connected application, if any, stands disposed of.
- 43.** Interim order, if any, stands vacated.
- 44.** Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)