

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 5407 of 2026

M/s. The Peerless Inn, Kolkata

Vs.

The State of West Bengal & Ors.

For the Petitioner	: Mr. Jaydip Kar, sr. adv. Mr. Ranjay De, sr. adv. Mr. B. Banerjee, Mr. A.A. Bose, Mr. S.D. Roy.
For the Respondent No. 2	: Mr. Balaram Patra, Mr. Suvadip Bhattacharjee.
Judgment reserved on	: 21.04.2026
Judgment delivered on	: 18.05.2026

SHAMPA DUTT (PAUL), J. :

1. The writ application has been preferred challenging an order dated 02.02.2026 passed by the learned First Industrial Tribunal, Kolkata.
2. Vide the impugned order, the learned Tribunal considering the issue raised by the petitioner herein, decided the said issue as follows:-

“Now the moot question is “ as to whether the entire proceeding to be gone away on subsequent

deregistration of the Union No. 1 under Trade Union Act or not.”.....

*In this regard, I have carefully gone through all 3(three) citations referred by OP/Company and my considered and humble opinion is that the citation **(2006) 11 SCC P-731(II)** is not applicable in the given case as because in that citation from the day beginning or at the time filing writ, the petitioner being an unregistered union as registration already withdrawn, suppressed the fact of withdrawal of registration before the court of justice, which was misleading to the court. So, only on the ground of misleading and suppressing the fact of withdrawal of registration, the prayer was turned down. But here in this case, the Union No. 1 was all through a registered trade union in the proceeding and there was no suppression of fact rather the fact of subsequent de-registration, which is not similar with the fact of above citation.*

*The citation No. 2, **SCC Online Cal 640** is also not relevant to this case as fact of the citation is altogether different with the facts in hand because the trade union registered under the West Bengal Co-operative Society Act not under the Trade Union Act.*

*The citation No. 3, **2025 SCC Online Gauhati 2659** is also not applicable in given fact of the case as because on that citation the union representing the members is totally unregistered union.*

But in this case, the Union No. 1 was all through a registered union under the Trade Union Act 1926 as per requirement of Industrial Dispute Act and subsequently at the stage of hearing of argument i.e. on 27.07.2023, it became unregistered. So, the question is the subsequent event like de-registered of the trade union subsequently, will have any effect in this proceeding or not, that to be taken for consideration.

At the threshold, it should be kept in mind that the Industrial Dispute Act is a peace of social welfare legislation, enacted with a view to protect the workers from the exploitation and at the same time to ensure the

all-round development of industry by maintaining industrial peace.

*In this regard, I would like to recapitulate the meaning of industrial dispute - Industrial Dispute as a dispute, which is likely to disrupt the industrial peace. **Hon'ble Supreme Court in citation in 1979(3) SCC 291, has held that the industrial dispute can be raised by a substantial numbers of workmen, even an un-registered minority union can raise such a dispute. There is nothing in the act to require that dispute should be raised by all the workmen.***

*Hon'ble Supreme Court in citation, **1960 SCC Online SC 324**, held that a dispute becomes an industrial dispute even where it is sponsored by a union, **which is not registered.***

*On relying upon ruling **2000 (4) L. L. N. 1086 Cal, Hon'ble Calcutta High Court** on its judgement dated 04.08.2000, has held that for the purpose of raising an industrial dispute on behalf of the workmen, it is not necessary that the trade union must be recognized union. Even some of the other workmen are entitled to raise an industrial dispute on behalf of the concerned workmen as group of workmen.*

*In **1960 SCC Online Mad 233, Hon'ble High Court of Madras** has held that all that is necessary that the dispute in order to become an industrial dispute should have the support of substantial Section of the workmen concerned in the establishment. If such a collective dispute exists in relation to the matters specified by the definition of an industrial dispute, then the conditions required on the appropriate government to make a reference of the dispute for adjudication are satisfied.*

In various judgments, the Hon'ble Apex Court has stated that any worker represented by union either registered or unregistered can proceed with the case under Industrial Dispute Act as because the registration or non-registration of any union does not cause to brush aside or wipe out the existence of industrial dispute.

Resultantly industrial dispute always exists between the employer and employee or employer and employees with relating to condition of employment and terms of employment. In this context registration or non-registration is not so significant. Rather dispute is required to be addressed.

Therefore, the ratio decendi of the judgments of the Hon'ble Apex Courts and various High Courts, it is settled that industrial dispute can be raised by any group of workers, unions either registered or un-registered those who espoused the common interests of the workers.

If that be the view of the Hon'ble Apex Court, then the industrial dispute espoused by any union either registered or un-registered, if referred by the government will be the subject for adjudication by the Tribunal.

Here in the case, the OP tried to point out that the judgement passed by the Hon'ble Apex Court before the amendment of Section 2qq of the Industrial Dispute Act i.e. before 1984 and Section 2A before 1965 and these are not applicable.

But, I am not agreed with the argument of the OP/Company as because Section 2A has given a right to any individual workman for coming to the Tribunal straightway on compliance of prior formalities for seeking relief as it was not ensured in 2K of the definition of industrial dispute. It implies that union either registered or un-registered always has the right to raise the industrial dispute and espouse the same for seeking relief.

It is also relevant to state that in the given case the Union No. 1 was registered union under the Trade Union Act from the very inception of the proceedings. And at the time of hearing argument, the registration of Union No. 1 has been withdrawn by the competent authority on 27.07.2023. For such withdrawal of certificate for registration will have no effect in the entire proceedings. In addition to that, it can be said that there is no retrospective effect in de-registered of trade union in on going industrial dispute proceedings.

In view of above, in the given fact of the case, the subsequent cancellation of the certificate of registration against the Union No. 1 does not have any effect on the merit of the proceedings.

As such, the point raised by OP/Company is having no merit and liable to be rejected.”

3. Hence, the writ application, being aggrieved by the impugned order.

4. The petitioner's case in short is that the State Government being the appropriate Government, by an order of reference dated 15/16.03.2005, referred an issue of charter of demand to the Learned Fourth Industrial Tribunal, Kolkata for adjudication.

5. On 19.05.2008, by a Government Order, the same was transferred to the Learned First Industrial Tribunal, Government of West Bengal.

6. In between 12.11.2008 to 09.02.2016, both the parties that is Respondent No. 2 and the petitioner herein produced their respective witnesses who were discharged after being fully cross-examined.

7. On 20.07.2023, the registration of the union being Respondent No. 2 has been cancelled by the Appropriate Authority under the Trade Unions Act, 1926. Thereafter, two applications were filed on behalf of the petitioner on 27.07.2023 raising maintainability of the instant case based on the de-

registration of the Respondent No. 2 as well as taking up such point first by keeping in abeyance other issues. An objection was filed on behalf of the Respondent No. 2 to the said application on 04.08.2023.

8. The aspect of de-registration was challenged at the instance of the Respondent No. 2 in WPA No. 16813 of 2025. By a judgment and order dated 14.08.2025 this Hon'ble Court was pleased to direct the Respondent No. 2 to file a statutory appeal in connection with the order of cancellation dated 20.07.2023 and the said order has not been upset by the Hon'ble Division Bench till today.

9. The petitioner herein is aggrieved that by an order dated 02.02.2026, the Respondent Tribunal allowed the Respondent No. 2 to take part in the pending case though it became a deregistered entity thereby acting against the statutory provisions as well as the law of the land decided by the Hon'ble Apex Court.

10. In course of hearing, both parties have filed their respective written notes along with judgments relied upon.

11. The petitioner on filing written notes has argued whether the Respondent No.2 being an unregistered union can represent an Industrial Dispute or take part in the judicial proceedings pending before the Learned First Industrial Tribunal

after amended definition of Trade Union under Section 2(qq) of the Industrial Disputes Act, 1947 (in short "the said Act of 1947").

12. It is further argued by the learned senior counsel Mr. Kar, appearing for the petitioner that undisputedly, trade unions can be classified into two (2) categories. One is registered and the other one is unregistered. Now the question arises as to out of these two categories, which category of union enjoys statutory protection and / or statutory recognition. The right, title and obligations of a trade union finds place in the Trade Unions Act, 1926 and the same is meant for the trade unions registered there under and not otherwise.

13. The petitioner relies upon Section 15(c) of the Trade Unions Act, 1926 which is as follows:-

“The prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employees.”

14. It is further stated that a registered Union and its office bearers and its members enjoys immunities under certain acts.

15. It is further stated that Section 2(qq) provides, a trade under the Trade Unions Act, 1926. Section 36 provides that a workman may be represented by a registered trade union.

16. **The following judgments are relied upon in support of their case by the petitioner:-**

i. ***Ramchandra Keshav Adke (Dead) by LRs. and Ors. vs Govind Joti Chavare and Ors.(1973) 1 SCC 559, Para***

25.

“25. A century ago, in Taylor v. Taylor, Jassel, M. R. adopted the rule that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. This rule has stood the test of time. It was applied by the Privy Council, in Nazir Ahmed v. Emperor and later by this Court in several cases, to a magistrate making a record under Sections 164 and 364 of the Code of Criminal Procedure, 1898. This rule squarely applies "where, indeed, the whole aim and object of the Legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other." The rule will be attracted with full force in the present case, because non-verification of the surrender in the requisite manner would frustrate the very purpose of this provision. Intention of the Legislature to prohibit the verification of the surrender in a manner other than the one prescribed, is implied in these provisions. Failure to comply with these mandatory provisions, therefore, had vitiated the surrender and rendered it non est for the purpose of Section 5(3) (b).”

ii. ***State of Odisha and Anr. vs Satish Kumar Ishwardas Gajbhiye and Ors. (2021) 17 SCC 90, Para 12, 18.***

“12. To proceed with a structured preliminary enquiry, it must have statutory sanction. A statutory authority can do only such acts which are permissible under the statute and the authority cannot be permitted to do something which is not provided in law. This principle was formulated by the Calcutta High Court nine decades ago in Maniruddin Bepari v. Chairman of the Municipal Commissioners [Maniruddin Bepari v. Chairman of the Municipal Commissioners, 1935 SCC OnLine Cal 296] , in which it was inter alia held : (SCC OnLine Cal)

“It is a fundamental principle of law that a natural person has the capacity to do all lawful things unless his capacity has been curtailed by some rule of law. It is equally a fundamental principle that in the case of a statutory corporation it is just the other way. The corporation has no power to do anything unless those powers are conferred on it by the statute which creates it.”

18. *We have quoted the judgment [Maniruddin Bepari v. Chairman of the Municipal Commissioners, 1935 SCC OnLine Cal 296] of the Calcutta High Court, with which we concur. The principle of law that emerges from that judgment is that though a private citizen is permitted to do what is not prohibited in law, a statutory authority can do only what is permissible in law. As such in our considered view, the order directing the preliminary inquiry in the present case, in the form it was undertaken, was not justified in law. In situations where Rules do not provide for holding preliminary enquiry before initiating disciplinary action, the principle laid down in Champaklal Chimanlal Shah [Champaklal Chimanlal Shah v. Union of India, 1963 SCC OnLine SC 42 : AIR 1964 SC 1854] would prevail. But the nature of enquiry in such a situation would be in the nature of information gathering exercise, on the basis of which the authorities would decide whether to proceed in*

the matter or not. In this case, as we have already observed, the preliminary enquiry resulted in issue of article of charges, the phrasing of which clearly revealed formation of opinion of the authorities in finding of guilt of Respondent 1.”

iii. B. Srinivasa Reddy vs Karnataka Urban Water Supply & Drainage Board Employees Association and Ors. (2006) 11 SCC 731 (II), Para 36, 38, wherein the Court held:-

“36. *In Parents Teachers Assn. v. Chairman, Kendriya Vidyalaya Sangathan [AIR 2001 Raj 35 : (2000) 6 SLR 68] speaking for the Bench, Dr. Ar. Lakshmanan, C.J., in paras 12 and 13 observed as under: (AIR pp. 38-39)*

“12. The appellant-petitioners have not placed before this Court any document to show that the Parents-Teachers Association is a registered and recognised association. The writ petition has been allegedly filed in public interest and the alleged large interest of the students. It is evident that the so-called Parents-Teachers Association is an unregistered and unrecognised association and, therefore, in our view, has no fundamental right to approach this Court under Article 226 of the Constitution. This point has been concluded by the decision of the Apex Court in Mahinder Kumar Gupta [(1995) 1 SCC 85 : JT (1995) 1 SC 11] and by the decision of Full Bench of this Court in RSEB Accountants' Assn. [RSEB Accountants' Assn. v. Rajasthan SEB, (1996) 1 SLR 467 (FB)] A reply to the preliminary objection raised by the respondents was also made by the appellants. It is stated that the Parents-Teachers Association has been recognised by the KVS and that the Principal is the Vice-Chairman of the said Association and hence, the Association is competent to file the writ petition on behalf of the students. In our view, the above reason cannot be considered as a valid reason for

maintaining the writ petition. It is not in dispute that the Association is not a registered body and recognised association. Thus, after examining this point of law in detail and placing reliance on various judgments delivered by the Apex Court from time to time, the Full Bench of this Court in RSEB Accountants' Assn. [RSEB Accountants' Assn. v. Rajasthan SEB, (1996) 1 SLR 467 (FB)] held as under:

'It may also be observed that an unregistered association has no fundamental right to approach this Court under Article 226 of the Constitution and this point is concluded by the decision in Mahinder Kumar Gupta v. Union of India [(1995) 1 SCC 85 : JT (1995) 1 SC 11] . A decision in Akhil Bharatiya Soshit Karamchari Sangh (Rly.) v. Union of India [(1981) 1 SCC 246 : 1981 SCC (L&S) 50 : AIR 1981 SC 298] was relied upon where the non-registered association was held to apply under Article 32 of the Constitution. We may observe that there had been a number of instances of public interest litigation where large body of persons is having grievance against inaction of the State. Even letters have been considered to be a writ petition but all these are the matters where large section of public is affected and the personal interest of any person or a smaller section as in the present case, is not involved. Even in People's Union for Democratic Rights v. Union of India [(1982) 3 SCC 235 : 1982 SCC (L&S) 275 : AIR 1982 SC 1473] when the question of locus standi was considered, the Hon'ble Supreme Court had taken into consideration the poverty, illiteracy and the ignorance obstructing and impeding accessibility of the judicial process and on that ground it was considered that the writ petition can be filed. In D.S. Nakara v. Union of India [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130] the old pensioners individually were unable to undertake journey through labyrinths of costly and protracted legal judicial process for allowing to espouse their cause. In S.P. Gupta v. Union of India [1981 Supp SCC 87 : AIR 1982 SC 149] poverty, helplessness and disability or social or economic disadvantaged position was considered a sufficient ground for

maintaining the writ petition. There had been other decisions of the Apex Court as well and principles which emerge from all of them are as under:

(a) That the members of the said association should have sufficient strength so as to come in the category of a large section of public.

(b) That the members should be identifiable.

(c) That the members must be of the category of poor/illiterate/helpless or disabled.

(d) That the individual members must not be capable of filing a writ petition.

(e) That the entire body of the members must authorise the association to protect their legal rights.

(f) That such an association must have its own constitution, and

(g) That there must be authority to file a writ petition on behalf of all the members.'

13. In the instant case, none of the grounds mentioned above in (a) to (g) have been satisfied by the present appellants to maintain the writ petition. Since the above conditions are not fulfilled such an unregistered association cannot file writ petition in respect of the legal rights of the said association for the alleged breach of fundamental right as the association itself has no fundamental right of its own."

38. *In the writ petition filed by Respondents 1 and 2 their locus standi to challenge the appointment of the appellant was asserted in the following words:*

"The petitioner Association is a trade union registered under the Trade Unions Act, 1926. The petitioner is the only registered trade union existing in the 2nd respondent Board. The Board has held several negotiations with the petitioner Union with regard to the service conditions of the employees of

the 2nd respondent Board since its formation in the year 1986. The Board has entered into several settlements with the petitioner Union with regard to their service conditions. The petitioner which is a recognised trade union is entitled to agitate the matter with regard to the appointment of the 3rd respondent to the Board. The petitioner is concerned about the functioning of the 2nd respondent Board, and as such is entitled to question the appointment of the 3rd respondent as Managing Director on contract basis. Hence, the petitioner has locus standi to file this writ petition.”

(emphasis supplied)

These averments were established to be false. The registration of the first respondent under the Trade Unions Act had been cancelled as early as on 2-11-1992. It is not a registered and recognised union. In fact, it was pointed out that the one recognised association is the Karnataka Urban Water Supply and Drainage Board Officers' and Employees' Association and the first respondent does not have even a handful of members. The fact of cancellation of registration of the first respondent came to the knowledge of the appellant long after the disposal of the earlier Writ Petition No. 44001 of 1995 wherein the Court had given a finding that the first respondent has locus standi to challenge the appointment of the appellant to the post of Managing Director of the Board solely on the ground that it is a registered trade union. In our opinion, the High Court gravely erred in refusing to examine the question of locus standi on the ground that it is decided in the earlier writ petition which operates as res judicata and that the petitioners even otherwise have locus standi. Chapter III of the Trade Unions Act, 1926 sets out rights and liabilities of the registered trade unions. Under the said enactment, an unregistered trade union or a trade union whose registration has been cancelled has no manner of right whatsoever, even the rights available under the ID Act have been limited only to those trade unions which are registered under the Trade Unions Act, 1926 by insertion of clause 2(qq) in the ID Act w.e.f. 21-8-1984 defining a trade union to mean a trade union registered under the Trade Unions Act, 1926.”

**iv. Calcutta Port Trust Union vs Haldia Shore Ship
& Transport Handling Workers Co-operative
Construction Society Ltd. & Anr., 2013 SCC
OnLine Cal 6440.**

“Reference to the tribunal was made by the Central Government in terms of the order passed by the Division Bench of this Court in FMAT No. 3452 of 1993 and FMAT 3291 of 1993. Section 14 of the Trade Union Act in explicit and unequivocal words says that the registration of any Trade Union under the Society Registration Act, 1960, the Co-operative Society Act, 1912, and the Companies Act, 1956, shall be void. The reference was made under the Industrial Dispute Act, 1947 wherein the Trade Union is defined as Trade Union Registered under the Trade Union Act, 1926. Therefore, any Trade Union, who is not registered under the Trade Union Act, cannot be treated as the Trade Union under the Industrial Dispute Act, 1947. Section 36 which deals with the representation of a parties in clear terms stipulates that a workman is entitled to be represented in any proceeding under the Industrial Dispute Act by any member of the executive or other office bearer of a Registered Trade Union.

The word ‘Registered Trade Union’ is of great significance and can imbibe within it's contour the Trade Union Register under the Trade Union Act and not otherwise. The said section further takes care of the interest of the workman who is not a member of a Trade Union to be represented by any member of the executive or other office bearer of any Trade Union connected with or by other workmen employed in the industry in which the worker is employed. In any of such eventualities, the representation is to be made through a Trade Union Registered under the Trade Union Act

and not through any Association or Union which is not recognized under the said Act.

Section 14 of the Trade Union Act declares the registration of a Trade Union under the Co-operative Society Act to be void. It does not get valid recognition in a proceeding initiated under the Industrial Dispute Act. The Union seeking addition in a proceeding under the Industrial Dispute Act must have a legal recognition in relation to the said proceeding and capable of enforcing such right for which it is formed and/or constituted. The said Union cannot be termed to be necessary and/or proper party as it cannot validly espouse the cause of its member in a reference proceeding before the Tribunal which is a creature of the Industrial Dispute Act. The statutory tribunal cannot travel beyond its authority limited under the Act which constituted it. The Industrial Dispute Act does not recognize the Trade Union other than those who are registered under the Trade Union Act and, therefore, the tribunal should not have allowed the application for addition of party."

17. It appears that the written notes also includes submission on merit which this Court is not inclined to go into at this stage considering the issue involved in the impugned order.

18. The petitioner argues that so far as the judgment of **2000 (4) LLN 1086 Secretary (Policy) Regional Director (Food) Employees Association vs FCI and Ors.** is concerned, it deals with the power of an "unrecognized union" to raise an industrial dispute. Admittedly, the concept of registration is a statutory provision under the said Act of 1926 read with the Industrial Disputes Act, 1947. In fact, a registered union may be an

unrecognized one by the employer but that does not prevent it from raising an industrial dispute whereas an unregistered entity cannot get such privilege under the said Act of 1947. The entire statutory scheme makes a clear distinction between a body of workmen acting informally and a "trade union" recognized by law. Once the legislature has defined "trade union" in Section 2(qq) of the Industrial Disputes Act, 1947 to mean a trade union registered under the Trade Unions Act, 1926, the consequence is clear: rights, privileges and representational capacity under the Act, wherever conferred on a trade union, are available only to such registered union. The definition is exhaustive and not illustrative. **Accordingly, after cancellation of registration, Respondent No. 2 cannot continue to assert statutory rights as a "trade union" under the Industrial Disputes Act.**

19. It is further stated by the petitioner that the Learned Tribunal misdirected itself in law while holding that withdrawal of the registration of the Respondent No. 2 cannot have a retrospective operation being totally oblivious of the fact that **Section 36 of the said Act of 1947 has already created a legal impediment for the said Union to take part in the proceedings as of now.** It is fundamental that no civil proceedings can sustain on the eventuality of the death of the

Petitioner / Plaintiff unless proper steps are taken by the legal heirs, if any. The de registration of the Respondent No. 2 is really a civil death of the said Union in the eye of law and as a consequence thereof, it is stripped off from all statutory protection and rights from the date it has got the Order of Cancellation. In such view of the matter, the conclusion of the Learned Tribunal pertaining to retrospective operation is totally a misconceived one.

20. The respondent no. 2 has countered the case of the petitioner herein and argues that for an industrial dispute to be maintainable before a tribunal, the trade union espousing the dispute must be registered and/or recognized under the applicable trade union laws; **if the union loses registration but was validly registered at the time the dispute was raised, its locus to maintain the dispute may still be subject to adjudication.**

21. The respondent no. 2 further argues that Section 10 of the Industrial Disputes Act, 1947, specifically states that **no disputes shall exceed three months.** A dispute becomes an industrial dispute even where it is sponsored by a union which is not registered. In the instant case there are 40/50 permanent staff (including Officer/Managerial Staffs approximately 5 to 10 in numbers) out of 40/30 workmen our union has 12 to 15

members which constitutes a substantial number for continuing with the dispute and it is a settled law that a substantial numbers is required to maintain the dispute in respect of the said dispute, the petitioner relies upon the judgment of the Supreme Court in **AIR 1961 SC 304 Para 5, State of Bihar vs Kripa Shankar Jaiswal.**

22. It is further argued that Section 10(8) of the Industrial Disputes Act, 1947 specifically says that " No proceeding pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall not lapse merely by reason of the death of any of the parties to the disputes being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceeding and submit its award to the appropriate Government".

23. The respondent relies upon the following judgments:-

- i. Newspapers Ltd. vs U.P. State Industrial Tribunal & Ors. AIR 1960 SC 1328 Para-4,**
- ii. Workmen of India Express (P) Ltd. vs Management 1969(1) SCC 228 Para 07.**
- iii. Management of Gammon (India) Ltd. vs State of Orissa and Ors. 1973 SCC Online Ori 267 Para-8.**

24. It is further stated that a proceeding starts upon a reference, continues and shall be deemed to have concluded only

when the award becomes enforceable under Section 17A of the Industrial Disputes Act, 1947 and that for the purpose of raising an industrial dispute on behalf of the workmen it is not necessary that the trade union must be a recognized union.

25. As such it is stated that the order No. 223 dated 02.02.2026 passed by the Learned Tribunal does not suffer from any error apparent on the face of the record and hence the same should not be interfered with.

26. In respect of the judgments relied upon by the petitioner, it appears that the judgments in ***Ramchandra Keshav (Supra)***, ***Laxmichand (Supra)*** and ***Satish Kumar Ishwardas (Supra)***, the same apply, to the acts of the statutory authorities.

27. The judgment in ***B. Srinivas Reddy (Supra)*** states about the statutory rights of rights and liabilities of a registered trade union under the trade unions act, 1926 and denial of the same to an unregistered one or whose registration has been withdrawn.

28. The observations in ***Haldia Shore ship (Supra)*** is in respect of an union seeking to be added as a party, wherein the union was not a valid union registered under the Trade Unions Act, 1929 and was an union barred under Section 14 of the Act.

29. Admittedly in the present case, on 15.03.2005, the reference in the present case was made in respect of a dispute

raised by two registered Trade Unions representing their members.

30. The registration of one of the Unions “Peerless Hotels and Trade” workers union (respondent no. 2 herein) was withdrawn/ cancelled on 20.07.2023.

31. Only the respondent no. 2 union was taking part in the proceedings when its registration was withdrawn.

32. The other registered union who jointly raised the dispute was not participating in the proceeding.

33. The sole contention of the petitioner herein is that as the trade union which is participating in the proceeding has lost its registration, it can no more continue to participate in the proceedings as it has lost its rights under Section 14 of the act.

34. The petitioner prays for deteting the respondent no. 2 from the order of reference in the present case.

35. The dispute in this case was regarding “charter of demands” of the respondent no. 2 representing its members.

36. In **WPA 20373 of 2008 Steel Authority of India Limited, IISCO Steel Plant vs The State of West Bengal & Ors., order dated 18.08.2025**, this Court held:-

“27. Once a valid reference is made, the referring government becomes functus officio, it cannot cancel or withdraw the reference.

*28. In **State of Bihar v. D.N. Ganguly, AIR 1958 SC 1018**, the Supreme Court was of the view that:-*

“Section 10(1) of the Industrial Disputes Act, 1947, does not confer on the appropriate Government the power to cancel or supersede a reference made thereunder in respect of an industrial dispute pending adjudication by the tribunal constituted for that purpose. Nor can s. 21 of the General Clauses Act, 1897, vest such a power by necessary implication.”

37. A reference to a tribunal survives even after the registration of a trade union has been cancelled. Under Indian labor law, an industrial dispute properly referred to an Industrial Tribunal or Labour Court remains valid and active regardless of whether the initiating union's registration is subsequently withdrawn.

38. The reference to a tribunal concerns the substantive rights of the workmen, not merely the legal standing of the union itself. Cancellation of a union's registration under the Trade Unions Act, 1926 does not extinguish the underlying industrial dispute.

39. Once an industrial dispute is validly referred to a tribunal by the appropriate government, the cancellation or dissolution of the union does not render the reference infructuous or void. The dispute survives as it is fundamentally a matter between the affected workmen and the employer.

40. Even if a union loses its registration, individual workmen or groups of workmen can continue to pursue the dispute and

can often be represented by authorized office-bearers or other advocates before the tribunal, as long as the representation is permissible under Section 36 of the Industrial Disputes Act, 1947.

41. Under industrial law, an unregistered trade union generally lacks the statutory standing to initiate or formally represent workers in proceedings before an Industrial Tribunal or Labour Court. Once a union loses its registration, its capacity to act as a legal entity in formal disputes is impacted.

42. According to Section 36 of the Industrial Disputes Act, 1947, a workman who is a party to a dispute is entitled to be represented by an officer of a registered trade union. An unregistered union cannot officially espouse the cause of its members as a recognized corporate body.

43. Although the union itself may lose its locus standi upon cancellation of its registration, the workers who are parties to the dispute are not left entirely without a voice. The affected workmen can usually continue to participate in the proceedings through alternative avenues.

44. The workers can choose to represent themselves directly or be represented by other authorized fellow workmen.

45. Admittedly as stated by the petitioner on 14.08.2025, the High Court by an Order in WPA 16813 of 2025 while dealing with the aspect of de registration of Respondent No. 2 was pleased to direct the said Union to approach the Appellate Authority under Section 11 of Trade Unions Act, 1926 within 30 days from the said Order but the Union did not avail of such opportunity, instead preferred an appeal which is pending at the instance of the said Union, before a division bench of this Court.

46. In ***Polypharma Pvt. Ltd. vs Kamgar Sabha***, 22 August, 2005, (2006) ILLJ620BOM, the Bombay High Court held:-

*“12. Espousal of a dispute cannot have a restricted meaning. It cannot be confined to mere initiation of a dispute. The dictionary meaning of the word "espousal" is -"the act of espousing or betrothing; the taking upon oneself of eg. a cause)". Espousal, therefore, would include not only the initiation but also taking up the cause till its logical conclusion. Therefore, this submission of Mr. Mokashi is also without any merit. It is a well settled position of law that subsequent withdrawal of support by a Trade Union will not affect the character of the dispute nor will it take away the jurisdiction of an Industrial Tribunal. **What is required to be noticed is whether on the date the reference was made, a trade union had espoused the cause.** Admittedly, in the present case, the MGKU had sponsored the dispute and continued to do so till the reference was made.”*

47. It appears that the respondent no. 2 had preferred a writ application (WPA 16830 of 2025) challenging the cancellation of the registration of the respondent no. 2 Union by the registrar of trade union who had passed an order on merit. In the said writ application vide an order dated 14.08.2025 the Court granted liberty to the respondent no. 2 to prefer an appeal under Section 11 of the Trade Unions Act before the appellate authority. It is submitted by the learned counsel for the respondent no. 2 that an appeal has been preferred against the said order dated 14.08.2025 which is pending.

48. Considering the said conduct of the said petitioner and the relevant provision of the trade Unions Act as referred to by this Court in this judgment, this Court is of the view that the respondent no. 2 being admittedly an unregistered trade union at present, cannot participate any further in the proceedings before the tribunal. But the materials and evidence already on record is to be considered by the tribunal. It appears that the reference before the learned tribunal is in respect of a charter of demand regarding revision of various issues, espousing the cause of a substantial number of workmen, who are the members of the said union.

49. As the reference remains a valid reference, the workmen, being a substantial number of members of the union, which has

lost its registration are at liberty to appear/participate in the reference case to continue/pursue the dispute as the dispute and the reference survives fundamentally, being a matter between the workmen and the employer, until the unions gets its registration or the reference is disposed of, whichever is earlier.

50. WPA 5407 of 2026 is disposed of.

51. Connected application, if any, stands disposed of.

52. Interim order, if any, stands vacated.

53. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

[Shampa Dutt (Paul), J.]