

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 19945 of 2022

**Ruchi Soya Industries Limited Contractor's Workers'
Union, Durgachak.**

Vs

**The Labour Commissioner & Special Secretary to the
Government of West Bengal, New Secretariat Building,
Kolkata.**

For the Petitioner : Mr. Ranjit Kr. Jaiswal,
Md. Ali Jinnah,
Mr. Nandalal Pradhan.

For the Respondent No. 3 : Mr. Soumya Majumder, Sr. Adv.,
Ms. Sanjukta Dutta,
Mr. Kinnor Ghosh.

Judgment reserved on : 13.01.2026

Judgment delivered on : 02.02.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred praying for direction upon the respondent nos. 1, 2 and 5 to grant recognition to the petitioner Trade Union to participate as the constituent of the joint bargaining council in terms of the demand of justice letter dated 06.04.2022 and to de-recognize the respondent no. 4 by declaring that the formation of the

respondent no. 4 Trade Union is totally illegal and in contravention of Section 7(2) of the Trade Union Act.

2. The petitioner's case, in their writ petition, affidavit-in-reply and written notes, is that the petitioner is a Trade Union registered under the Trade Union Act, 1926 in the name of Ruchi Soya Industries Limited Contractor's Workers' Union, Durgachak duly registered on 9th February, 2015, affiliated to INTUC on 25th November, 2020.
3. A tripartite settlement was arrived at between contractors engaged by M/s. Ruchi Soya Industries, Haldia Factory, Ruchi Soya Industries Limited Pragatisil Contractor Workers Union, Durgachak Colony, Registration No. 25619 affiliated to INTTUC, Ruchi Soya Industries Workers Union Registration no. 24639 affiliated to CITU and officers representing principal employers on 04.08.2014. The settlement was to remain valid for a period of three years from 01.07.2014.
4. The said Union was recognized by the employer and contractors engaged by principal employer. Since nothing was done after 2017, the petitioner union submitted a letter dated 29.11.2021, addressed to the Labour Commissioner, with a copy to listed contractors to draw his attention about gross violation of Labour Laws & Exploitation of Workers by Employers working at M/s. Ruchi Soya Industries Limited.
5. The petitioner Union highlighted also the fact that the principal employers and contractors have chosen the path of exploitation by depriving 1500 workers from the provisions of Payment of Minimum Wages Act and the employers are not giving a wage rate as per Government of West Bengal notification.

6. Meanwhile, the President along with other members resigned from Trinamool Congress on 17th December, 2020 and also from all post which he was holding in the Union affiliated to INTTUC. After the said resignation, Ruchi Soya Industries Limited Pragatisil Contractor Workers' Union was not actively functioning nor did it take care of the grievances of the poor workers.
7. The petitioner's Union, since no Union was functioning in the interregnum, raised Charter of Demand for the year 2021-2024 before the listed contractors and the Director, Ruchi Soya Industries Limited and sought for immediate settlement.
8. Petitioner by his letter dated 07.01.2022 addressed to the Deputy Labour Commissioner & Joint Labour Commissioner (P), Government of West Bengal drew his attention with regard to their Charter of Demand and further reminded that 1500 workers were not getting their wages as per Government of West Bengal notification and Ruchi Soya Industries Limited has been cheating the workers for more than 18 years.
9. It is stated that although the petitioner's Union (not recognized) submitted a Charter of Demand seeking better condition including payment of minimum wages as per applicable notification under the Minimum Wages Act, 1948, or the Contract Labour (Regulation and Abolition) Act, 1970, ignoring the said Charter of Demand submitted by the petitioner's Union and offering various lame excuses, even though the Union affiliated to INTTUC (respondent no. 4) was not registered and under process, after dissolution, to get registration number, the contractor and the employer went on buying time, till it was registered

and by way of Memorandum of Settlement settled the matter with the INTTUC. Though the employer, listed contractor and Union affiliated to INTTUC settled the matter, but the workers are getting far less minimum wages than the minimum wages rate as per Government of West Bengal.

10. It is further stated by the petitioner that Section 7 of the Trade Unions Act, postulates that a registered Trade Union shall not use a name identical to an existing registered Trade Union. The Registrar of Trade Union cannot allow two registered unions with identical or deceptively similar names in the same industry. Significantly, here the Trade Union affiliated to INTTUC is presently having the same name as that of the petitioner Union affiliated to INTTUC.

11. The respondent no. 3, the company, Ruchi Soya Industries Limited (now Patanjali Foods Limited) in their affidavit-in-opposition and written notes have countered the case of the petitioner as follows:-

(i) The said petition seeks relief against a private party which does not perform any public duty.

(ii) The writ petitioner does not have any legally enforceable right to pray for issuance of mandamus.

(iii) The relief towards grant of recognition by the private employer cannot be sought for through invocation of writ jurisdiction.

12. The disputes between the contractor's workers and the employer in relation to the contractor, had been duly settled through tripartite settlements under the provisions of the Industrial Disputes Act, 1947

which are deemed to be fair and binding, not only between the parties to the settlement but also to the non-parties and future workmen.

13. It is also stated that recognition of a trade union is not a matter of right. It is a concept which is statutorily governed in West Bengal under the provisions of the Trade Unions Act, 1926 with the Trade Unions (West Bengal Amendment) Act, 1983 thereunder, read with the corresponding Rules and Regulations.
14. It is the further case of the respondent no. 3 that the petitioner has admitted that Ruchi Soya Industries Limited is the principal employer and hence it cannot contend anything as regards amendment of service conditions of the contractors' workers, over whom no amount of supervision, administration and control is exercised by the principal employer.
15. The settlement emanating from the charter of demands of 2022 was made between the contractors and the trade unions representing the contractor's workers wherein the company namely, Ruchi Soya Industries Limited (now Patanjali Foods Limited) was a witness. The inter se rivalry over membership dispute of contractors' workers and fight among two trade unions cannot warrant the invocation of writ jurisdiction. The writ be thus dismissed.
16. The respondent no. 3 has relied upon the following judgments in support of their contention:-

(i) All India Bank Employers' Association vs. national Industrial Tribunal (Bank Disputes), Bombay & Ors., (AIR 1962 SC 171);

- (ii) *UCO Bank Employees' Association & Anr. vs. UCO Bank & Anr. (2014 Lab IC 1807);*
- (iii) *All India UCO Bank Staff Federation & Anr. vs. UCO Bank & Anr. (2014 SCC Online Cal 5060);*
- (iv) *All India UCO Bank Staff Federation & Anr. vs. UCO Bank & Anr. (in APO 266 of 2014 with WP 1204 of 2013, dated 1st December, 2016) (Division Bench);*
- (v) *ITC Ltd. Workers' Welfare Association & Anr. vs. Management of ITC Ltd. & Anr. (2002) 3 SCC 411, Para 17;*
- (vi) *National Engineering Industries Ltd. vs. State of Rajasthan & Ors. (2000) 1 SCC 371, Para 24;*
- (vii) *Steel Authority of India vs. Union of India & Ors. (2006) 12 SCC 233, Para 28;*
- (viii) *Municipal Corporation of Greater Mumbai & Ors. vs. Rafiqunnisa M. Khalifa (2019) 5 SCC 119, Para 26;*
- (ix) *Calcutta Gas Company (Proprietary) Ltd. vs. State of West Bengal & Ors. (AIR 1962 SC 1044, Para 5).*

17. Heard the learned counsels for the parties and considered the materials on record.

18. The petitioner Union herein prays for recognition to participate as the constituent of joint bargaining council of the respondent no. 3 company.

19. And further prays for declaring the formation of the respondent no. 4 Trade Union, as illegal and in contravention of Section 7(2) of the Trade Unions Act, 1926.

20. Section 28A (Chapter IIIA) of the Trade Unions (West Bengal Amendment) Act, 1983, lays down:-

"CHAPTER IIIA

Recognition of Trade Unions as bargaining agents

Application for recognition

28A. (1) Subject to the provisions of recognition sub-section (2), **any registered Trade Union may apply** in the prescribed manner together with such fee as may be prescribed **to the Registrar for recognition** as a recognised Trade Union for an industrial establishment or a class of industry in a local area, as the case may be:

Provided that no such application shall be entertained in respect of an industrial establishment or a class of industry in a local area, as the case may be, if there is already a Trade Union recognised under this Act in respect of such industrial establishment or class of industry, as the case may be, during the period of two years immediately following the date of recognition of that Trade Union by the employer concerned:

Provided further that such application may be filed with the Registrar within the period of two years referred to in the first proviso if the recognition of the Trade Union concerned is cancelled under this Act during that period:

Provided also that in a case where recognition has been granted under the provisions of sub-section (3) of section 28B, subsequent application by any other union may be entertained by the Registrar on the expiry of a period of six months immediately following the date of recognition of a Trade Union by the employer concerned, subject to the condition that the Registrar shall not entertain any such application unless accompanied by a document containing the signatures of such minimum number of eligible workmen

as is necessary for support for recognition as a constituent of the joint bargaining council:

Provided also that the existence of a recognised Trade Union in respect of a class of industry in a local area shall not be a bar in submitting an application for recognition in a single industrial establishment belonging to that class of industry in a local area.

(2) No Trade Union shall be eligible to apply for recognition under sub-section (1), unless-

(i) it has been functioning as a registered Trade Union in an industrial establishment or the class of industry in the local area, as the case may be, for a period of at least six months immediately preceding the date of filing of such application;

(ii) the membership thereof is open to all workmen employed in the industrial establishment or the class of industry in the local area, as the case may be; and

(iii) the rules of the Trade Union provide that-

(a) the appointment of the office-bearers shall be made every year within the date specified in this behalf; and

(b) the meeting of its executive shall be held at least once every three months.”

21. Admittedly, the petitioner/union has not taken recourse to the above provision of the Act of 1983.

22. Thus, the respondent no. 3's stand that the relief prayed for by the petitioner/union herein, is statutorily governed by the provisions of the Trade Unions Act, 1926 with the Trade Unions (West Bengal Amendment) Act, 1983 has merit.

23. As such, the proper forum for getting recognition of a trade union, is the respondent no. 5 herein, being the Registrar of trade union, whom the petitioner/union has not approached.
24. Regarding the issue of two registered Unions having been registered under the same name, the petitioner has to again apply to the respondent no. 5 as per Section 7 of the Trade Unions Act.
25. As to the prayer for declaring the formation of the respondent no. 4 Trade Union as illegal and in contravention of Section 7(2) of the Trade Unions Act, 1926, once again the appropriate authority is the respondent no. 5 herein, who admittedly has not been approached as per the Act.
26. As such, the appropriate forum/authority is the respondent no. 5 herein, who admittedly has not been approached.
27. The petitioner's relief thus lies before the respondent no. 5, in respect of all reliefs as prayed for herein, in the present writ and the respondent no. 5 having not been approached, **this writ is not maintainable and is thus dismissed.**
28. Connected application, if any, stands disposed of.
29. Interim order, if any, stands vacated.
30. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)