

Misc. Appeal No.03 of 2024

Present : Jayashree Banerjee, Chief Judge

Order No.2, dated 29.01.2024:

This is an appeal under Section 11(1)(a) of the Trade Unions Act, 1926 challenging the order of the Registrar of Trade Unions, cancelling the certificate of registration of the appellant under the Trade Unions Act, 1926.

The stay petition filed in connection with the instant appeal is being moved ex parte on the ground of urgency as pleaded by the Ld. Counsel for the appellant.

It is contended by the Ld. Counsel appearing for the appellant that the registration of the appellant has been cancelled by the impugned order passed by respondent no.1 on two grounds, firstly for having submitted defective annual return and the second ground is for non-compliance with the provision of Section 9(A) of the Trade Unions Act, 1926. Ld. Counsel invited the attention of this court to the notice issued upon the appellant under Form-E before withdrawing and/or cancelling the certificate of registration that of the appellant. Ld. Counsel thereafter invited the attention of this court to Section 28 of the Trade Unions Act, 1926 which reads as follows:

“There shall be sen annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

Together with the general statement there shall be sent to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

For the purpose of examining the documents referred to in sub-sections (1), (2) and (3), the Registrar, or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate

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of registration, account books, registers, and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union.”

Ld. Counsel specifically invited the attention of this court to Section 28 (4) and submitted that the alleged reasons for which respondent no.1 sought to cancel the registration of the appellant could not have been done outright without issuing notice under Section 28(4) requiring the appellant to produce the document for inspection by the respondent no.1. If a notice requiring the appellant to produce the documents for inspection before the respondent no.1 would have been issued then it would have been apparent that the Trade Union of the appellant were having members more than 9 in number and that the annual return which has been filed for the year 2022 if would have been looked into in its entirety, would have reveal that due to inadvertence certain columns were not filled in, in Form-H wherefrom it cannot be inferred that the numbers of members of the Trade Unions had fallen from 300 to zero. Moreover notices under Form-E are issued when fraud is alleged against a Trade Union. In this case the ground on which the respondent no.1 sought to cancel the registration of the appellant does not construe apparently any fraud appeared to have been committed by the appellant for which respondent no.1 passed the order of cancellation of registration of the appellant.

Ld. Counsel further submitted that if no stay order is granted upon the impugned order passed by the Registrar of Trade Unions cancelling the certificate of registration of the appellant, the appellant shall suffer irreparable loss and injury as today is the last date to produce documents before the Registrar of Trade Unions, West Bengal by any other registered Trade Union functioning in M/s CESC House interested in submitting its application for recognizance in the prescribed manner so as to reach the Registrar on Trade Unions on/or before 29.01.2029 within 04:00 p.m.

Having heard the Ld. Counsel and perusing the documents as have been annexed with the stay petition of the instant appeal, I am astisfied that the appellant prima facie has been able to make out a case for grant of ad interim injunction in its favour. This Court is threrefore inclined to entertain the prayer of the appellant and pass the following order:

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Contd.order No.2, dated 29.01.2024:

It is ordered that the impugned order dated 11.12.2023 passed by the respondent no.1 is hereby stayed for a period of two weeks and the respondents are directed to show cause as to why the prayer of the appellant shall not be made absolute pending disposal of the instant appeal within a period of two weeks from the date of receipt of this order to be furnished by the appellant at the office of the respondent in course of this day.

The appellant is directed to put requisites at once.

The appellant shall comply with the provisions under Order XXXIX Rules 3(a) and 3(b) of the Code of Civil Procedure.

Let a copy of this order counter signed by the Bench Clerk be handed over to the Ld. Counsel for the appellant for communication.

Fix 13.02.2024 for contested hearing of the stay petition.

Dictated & corrected by me,

Chief Judge,
City Civil Court, Calcutta.

Chief Judge.