

24. 04. 2024

BP
Sl. 8
Court No. 23

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 26161 of 2023
With
CAN 1 of 2023

Indian National Mineworkers'
Federation (INMF) & Ors.
Vs.
Union of India & Ors.

Mr. Soumya Majumdar
Mr. Victor Chatterjee
..for the petitioners

Mr. Shiv Chandra Prasad
Mr. Tirtha Pati acharya
..for the Union of India

Mr. Mahendra Prasad Gupta
Mr. Ayan Mitra
Mr. S. Singh
Ms. Antara Panja
..for the added respondent

Indian National Mineworkers' Federation
(INMF), Rashtriya Koyla Khadan Mazdoor Sangh
(RKKMS), Orissa Collieries Mazdoor Sangh (OCMS),
Colliery Mazdoor Union(CMU), Rashtriya Koyla Kamgar
Sangh (RKKS), Rashtriya Colliery Shramik Sangh (RCSS),
Singareni Coal Mines Labour Union (SCMLU) and
Rashtriya Colliery Mazdoor Sangh (RCMS) are the writ
petitioners along with their office bearers.

The case of the writ petitioners is that the petitioner no.1 (INMF) is a Trade Union and a Federation duly registered under the Trade Unions Act, 1926. The said Federation represents the cause of majority workers in the country those who are engaged in coal industries and is affiliated to Indian National Trade Union Congress (INTUC). The petitioner no.1 (INMF) filed a writ petition being WPA 10739 of 2021 wherein an order was passed on 29th June, 2021. Challenging the said order, the petitioners herein preferred an appeal being MAT 623 of 2021. The said appeal was disposed of by an order dated 10th February, 2023. By the said order INMF was permitted to participate in the forthcoming meetings of Joint Bipartite Committee for the Coal Industry (JBCCI) XI for finalization of National Coal Wage Agreement (in short NCWA) XI without prejudice to the rights of the parties which they may canvass in the writ petition. Pursuant to such order, it is the case of the INMF (writ petitioner no.1) that they participated in the JBCCI-XI. The JBCCI-XI has now stood concluded. The implementation of NCWA-XI being the outcome of JBCCI-XI is under implementation. The petitioners seek an order to permit INMF (writ petitioner no.1) to represent INTUC in the various sub-committees constituted in the implementation of NCWA-XI one of which is the

standardization committee. It is apparent from the order dated 13th October, 2023 which appears at page 107-107A of the writ petition that the representation of INTUC has been kept vacant till resolution of the factional dispute. It is also apparent from the records that there is an inter se factional dispute in INTUC to which INMF (writ petitioner no.1) claims to be affiliated the factional dispute in INTUC is the subject matter of a suit before the Delhi High Court. The decision in the said suit will only decide which faction of INTUC will be representing the said Central Trade Union.

At this stage if the petitioner no.1 is permitted to fill up the representation of INTUC then it will amount to recognizing the writ petitioner no.1 (INMF) to be representing INTUC in the Coal Industry even though the factional dispute remains pending. That apart the order dated 13th October, 2023 was passed in presence of six Central Trade Unions keeping the representation of INTUC vacant till resolution of the factional dispute. It is also to be noted that after participating in the JBCCI-XI in terms of the order dated 10th February, 2023, the purpose of the previous writ petitioner being WPA 10739 of 2021 was fulfilled without the final hearing. As a consequence whereof the said writ petition with the conclusion of JBCCI-XI wherein the petitioner no.1 represented, lost its

force and the petitioners did not pursue the same. The petitioners therein submitted before the Court that the same had become infructuous in view of finalization of NCWA-XI. The said writ petition therefor was dismissed as infructuous on 5th October, 2023.

In the aforesaid facts and circumstances, I do not find any scope for passing an interim order. Moreover any interim order allowing the writ petitioner no.1 to represent in the committees/sub-committees constituted for implementation of NCWA-XI will amount to passing of a final order at the interim stage. The writ petition in view of the aforesaid can be more effectively adjudicated by affording the respondents to file an affidavit.

Let affidavit-in-opposition be filed by 17th May, 2024. Reply thereto, if any, by 14th June, 2024.

Liberty to mention the matter after completion of affidavits or after expiry of the time provided for filing the affidavit in opposition if no such affidavit in opposition is filed.

In Re: CAN 1 of 2023

CAN 1 of 2023 is an application filed by Rashtriya Colliery Mazdoor Sangha (RCMS) for being added as a party respondent in the writ petition.

It is the case of the applicant that it had made an application for addition of party in WPA 12128 of

2023. However, during the pendency of the said application, the said writ petition on the prayer of the writ petitioners herein who were also the writ petitioners in the said application was dismissed on having become infructuous by an order dated 5th October, 2023. The applicant also says that it is affiliated to Indian National Trade Union Congress (in short "INTUC") like the writ petitioner no.1 (INMF). The applicant is also necessary to be heard before permitting the writ petitioner no.1 to participate in the various committees and sub-committees under NCWA-XI as the representative of INTUC.

This application is also required to be heard on affidavits.

Let affidavit-in-opposition to the application be filed by 17th May, 2024. Reply thereto, if any, by 14th June, 2024.

It is made clear that before the writ petition is taken up for final hearing this application for addition of party shall be disposed of and the applicant shall be added as a party and shall be given an opportunity to represent in the writ petition, if found to be either a necessary or a proper party.

(Arindam Mukherjee, J.)

