

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-8724 / 2018

(National Refinery Labour Union Vs. The Registrar of Trade Unions & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 01.09.2026.

Mr. Muhammad Latifuddin, Advocate for Petitioner.

Mr. Zohaib Sarki, Additional Advocate General Sindh.

Mr. Mujtaba Bajwa, Advocate for Respondent.

Adnan-ul-Karim Memon, J. Petitioner has filed this Petition under Article 199 of the Constitution of Islamic Republic of Pakistan seeking the following reliefs: -

- *“set aside the impugned Judgment dated 29-11-2018 (passed by Respondent No.3) and order dated 1-10-2018 (passed by Respondent No.4)*
- *direct the Respondent No.4 to delete the name of Respondent No.2 from the array of Respondents in Appeal No.4/2018 and”*

2. Learned counsel for the petitioner submitted that the workmen/employees of Respondent No.2 had formed the National Refinery Labour Union and applied for its registration under Section 4 of the Sindh Industrial Relations Act, 2013. After the initial discrepancies in the registration documents were rectified, objections raised by Respondent No.2 were duly replied to; however, the Registrar of Trade Unions rejected the registration application. The petitioner challenged the rejection before the Sindh Labour Court No.5 in Appeal No.4/2018. During the pendency of the appeal, Respondent No.2 sought impleadment as a party, which application was resisted by the petitioner. The Labour Court, vide order dated 01.10.2018, allowed the application and impleaded Respondent No.2 in the proceedings. The petitioner challenged that order through Revision Application No.KAR-40/2018, which was dismissed by the Sindh Labour Appellate Tribunal on 29.11.2018. Learned counsel contended that the orders of the Labour Court and Appellate Tribunal were / are contrary to law, particularly as the order dated 01.10.2018 was non-speaking and did not disclose reasons for impleading Respondent No.2 in the registration process. It was argued that, in view of the Supreme Court judgment in *Essa Cement Industries Workers’ Union* (1998 PLC 500), an employer or an existing trade union had no necessary role in the registration of a trade union and was not required to be heard. The Appellate Tribunal, according to counsel, misinterpreted the said judgment by treating Respondent No.2 as a proper party and further travelled beyond its jurisdiction by making observations regarding the eligibility and status

of the petitioner's office-bearers, thereby touching upon the merits of the pending appeal. Reliance was also placed on Article 189 of the Constitution, contending that the judgments of the Supreme Court are binding upon all courts and institutions. He prayed to allow this petition.

3. Learned AAG submitted that the registration application was scrutinized by the Labour Department and certain defects were pointed out. The Registrar thereafter sought from Respondent No.2 a list of workmen for verification and authentication of the members and office-bearers of the proposed union. It was contended that the petitioner union consisted of only five office-bearers/members, none of whom qualified as a "workman" under the Sindh Terms of Employment (Standing Orders) Act, 2015 and the Sindh Industrial Relations Act, 2013, as they were performing duties in an administrative officer capacity. It was further pointed out that two of them, namely Sheikh Muhammad Irfan and Syed Muhammad Khalid, were working as Sub-Engineers, who, according to the relevant judicial interpretation, did not fall within the definition of "workman." Learned AAG maintained that the registration application was not rejected arbitrarily or without examination; rather, after verification of the record, it was found that the petitioner had failed to fulfill the requirements of Sections 5 and 6 of the Sindh Industrial Relations Act, 2013. He pointed out that in particular, Section 6(2)(a) requires the members of an applying union to be workmen actually engaged in the concerned establishment, whereas none of the five members of the petitioner union satisfied that requirement. It was therefore submitted that the registration application had lawfully been rejected and that the constitutional petition is liable to be dismissed.

4. The learned counsel for respondent No.2 is of the same view and seeks dismissal of this petition.

5. We have heard the learned counsel for the petitioner and learned AAG, and counsel for respondent No.2, and having examined the record with their assistance.

6. The controversy primarily relates to the impleadment of Respondent No.2 in the proceedings arising out of the rejection of the petitioner union's registration application. The petitioner relies upon *Essa Cement Industries Workers' Union* (1998 PLC 500) to contend that an employer is neither a necessary nor a mandatory party at the stage of registration of a trade union. However, the said principle does not mean that the employer is altogether precluded from being associated with proceedings where verification of the status of the proposed union's members and office-bearers is directly in issue which could only be provided by the employer under the law.

7. Under the Sindh Industrial Relations Act, 2013, registration of a trade union is subject to fulfillment of the statutory requirements prescribed by the Act, particularly Sections 5 and 6. The Registrar is required to satisfy himself regarding the eligibility of the applicants and the membership of the proposed union. Where the very status of the alleged members as “workmen” is disputed, the record and information of the employer is legitimately be relevant for determining whether the statutory conditions for registration have been fulfilled. Therefore, the participation of Respondent No.2, for the limited purpose of assisting the competent authority in verification of the relevant facts, cannot by itself be regarded as contrary to law, therefore, the assertion of the petitioner is misconceived.

8. The contention that the order dated 01.10.2018 was non-speaking also does not, by itself, warrant interference in constitutional jurisdiction under Article 199 of the Constitution.

9. The question before the Labour Court at that stage was only whether Respondent No.2 could properly be joined in the pending appeal. Such an interlocutory order is required to be considered in the context of the proceedings as a whole, and mere absence of elaborate reasons would not render it without jurisdiction, particularly where the employer's participation had a direct nexus with verification of the membership and employment status of the proposed union.

10. More importantly, Respondent No.1 has taken a specific statutory objection that all five members/office-bearers of the petitioner union were not “workmen” within the meaning of the applicable labour laws and that two of them were serving as Sub-Engineers. Prima-facie, this objection goes to the very foundation of the petitioner’s entitlement to registration under Sections 5 and 6 of the Sindh Industrial Relations Act, 2013. Section 6(2)(a), as relied upon by Respondent No.1, requires the requisite members of the applying union to be workmen actually engaged in the concerned establishment. Consequently, the Registrar was/is competent to examine this question before granting registration, and the employer's record could reasonably be considered for such verification which could only be provided by the employer.

11. The reliance placed by the petitioner upon Article 189 of the Constitution is also of no assistance insofar as the petitioner seeks to read *Essa Cement* case as creating an absolute prohibition against impleadment of an employer. The binding principle of a precedent must be understood in the context of the facts and statutory framework governing that case. The distinction between a necessary party and a proper party is material: a person may not have a vested right to oppose registration, yet may be joined where his presence or assistance is considered necessary for the proper adjudication of a disputed factual or statutory issue. Thus, treating

Respondent No.2 as a proper party does not necessarily contradict the principle that an employer has no mandatory right of hearing at the registration stage.

12. At the same time, any observations made by the Appellate Tribunal regarding the ultimate eligibility of the petitioner's office-bearers could not prejudice the merits of Appeal No.4/2018, which remained pending before the Labour Court. The final determination regarding registration had to be made strictly in accordance with the statutory requirements and after providing the concerned parties an opportunity of being heard.

13. In these circumstances, no jurisdictional defect, illegality or perversity has been demonstrated in the impugned orders warranting interference under Article 199 of the Constitution. The impleadment of Respondent No.2 as a proper party, particularly when its employment record was relevant to determining whether the proposed members were "workmen" under the Sindh Industrial Relations Act, 2013, cannot be termed without lawful authority. The petition, therefore, does not merit acceptance and is dismissed, with the observation that the Labour Court shall decide Appeal No.4/2018 strictly on its own merits, uninfluenced by any prima facie observations made by the revisional forum / Court.

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