

IN THE HIGH COURT OF SINDH, AT KARACHI

Constitutional Petition No. D-6198 of 2014

Present:

Mr. Justice Syed Hassan Azhar Rizvi
Mr. Justice Adnan-ul-Karim Memon

K. Electric Limited, Petitioner
through

Mr. Mehmood Abdul Ghani,
Advocate

Registrar of Trade Union
and Federation of Pakistan,
Respondents No.1 and 3
through

Mr. Salman Talibuddin, Additional
Attorney General

Insaf Employees Union (KESC),
Respondent No.2 through

Mr. M.A.K. Azmati, Advocate

KESC Labour Union,
Respondent No.4 through

Mr. Farhatullah, Advocate

Date of hearing

11.12.2017

JUDGMENT

ADNAN-UL-KARIM MEMON, J:-The Petitioner has filed the instant petition with the following prayers:-

- A. *That this Hon'ble Court may be pleased to call for the entire record and proceedings of Case No. 03(36)/2013 under which the impugned Order dated 10.10.2013 of the registration of the Respondent No.2 Union was effected on 10.10.2013 by Respondent No.1 be pleased to set aside the said order of registration on the ground that the Respondent No.2 Union has no membership in Islamabad Capital Territory, hence not covered under IRA 2012 and also disproportionate membership to claim 'trans-provincial' status with no representation of Baluchistan as office bearers, and its registration is of no legal effect.*
- B. *That the learned Registrar of Trade Union, who has passed the impugned order and performed judicial functions was not appointed with the consultation of the Chief Justice of Pakistan and hence not eligible or entitled to perform the judicial functions of affecting the registration of the Union.*

- C. *That effecting registration of the Union without associating all the earlier registered Trade Unions and the employers in whose establishment this Union was established and registered, is a violation of law and the Constitution and more so Article 10-A of the Constitution and hence such proceedings are of no legal effect and registration of Respondent union is liable to be set aside.*
- D. *That registration of a Union claiming to be in more than one Province having disproportionate representative and or membership or employment, does not entitle the Respondent No.2 Union, the status of a “trans-provincial” union.*
- E. *That covering membership by the National Industrial Relation commission, with Head Quarter at Islamabad having no membership in Islamabad and extending membership in part of Lasbela Baluchistan by the Industrial Relations commission at Islamabad, comes in conflict that the Industrial Relations commission envisaged in the IRA 2012, and is a direct infringement and usurpation of the powers of Provincial autonomy, which is the backdrop of the 18th Amendment of the Constitution of Islamic Republic of Pakistan, as envisaged in the Constitution (18thAmendment) Act 2010. When that all the more, all the other three Provincial Industrial Relations Act in the Provinces of Sindh, Punjab Khyber Pakhtoonkhawa except Province of Baluchistan, nowhere envisage establishment of their own Industrial Relations commission which Industrial Relations Commission in Baluchistan is independent under Industrial Relations Act 2012 under which said registration have been effected.*
- F. *That since KESC Labour Union has now been impleaded as a Party to the present proceedings as Respondent No.4 and its registration was effected in violation of the law, issued by the Registrar of Trade Union performing judicial functions and not appointed in consultation with the Chief Justice of Pakistan. This Hon’ble Court may be please to order for the cancellation of the Registration of the KESC Labour Union, having been registered ab-initio illegally being void and of no legal effect.*
- G. *That Akhlaq Ahmed who has claimed to be impleaded as party to the proceedings is not an employee any of KESC, now known as K. Electric Limited, and he has not been reinstated in service by any Court of Law, hence not competent to act as a Chairman of the Respondent No.4 Union. Apart from the fact, that under relevant provisions of the Industrial Relations Law, there is no provision for Chairman being an office bearer of the Union, thus on this ground registration of his Union is also liable to be cancelled.*

2. Brief facts of the case are that the petitioner has impugned the order dated 10.10.2013 passed by the learned Bench of National Industrial Relations Commission(NIRC), Islamabad in Appeal No. 03(36)2013 filed by the Petitioner(K-Electric Limited), (formerly known as Karachi Electric Supply Company Ltd.); that the petitioner is primarily engaged in transmission and distribution of electricity in Karachi, where approximately 98% of its workers are employed and only 2% workers are working in Lasbella District, Baluchistan. Petitioner-Company has averred that out of its total 4800(Approx.), 4691 are working at Karachi (Province of Sindh) and that only 109 are working in Lasbella District, (Province of Baluchistan). The petitioner has averred that the Respondent No.2 Union claiming itself to be an Industry-wise Trade Union, apparently ninth union, applied to the Respondent No. 01 for registration of the said Union in terms of Form "A" of the NIRC (Procedure and Functions) Regulations, 1973 (since repealed) under Section 9 read with Section 54 (b) of the Industrial Relations Act, 2012 and claimed that the said Union was being formed in the establishment of K-Electric Limited and the Schedule containing names and particulars of 25 office bearers of the said Union claimed to be working in Karachi, was attached to the application. The Respondent No.2 Union contends that intimation about formation of the said Union along with the names of its office bearers and their status was intimated to the General Manager of K-Electric Limited. The petitioner further contends that the Respondent No.1/the Registrar of Trade Union, took no efforts, whatsoever, to implead other trade unions registered prior to

18th Amendment in the Constitution of Pakistan, 1973 and the employer as required under Section 8(2) of Industrial Relations Act, 2012, so as to determine total strength of workmen in petitioner's establishment and identify whether any worker(s) is/are member of more than one Trade Union at the same time, which is not permissible in law and also determine whether the Respondent No.2 Union is a "Trans Provincial" Union in a Trans Provincial Establishment as defined in the Industrial Relations Act, 2012. Petitioner has further asserted that after 18th Amendment in the Constitution of Pakistan, 1973, the subject of Labour was devolved to the provinces and all the four provinces promulgated their own Provincial Industrial Relations Acts. The Government of Baluchistan in July, 2010 promulgated Baluchistan Industrial Relations Act, 2010, which extends to all the establishments and Districts of province of Baluchistan, including District Lasbella and Section 25 of the Act, 2010 provides for establishment of Industrial Relations Commission and Section 25 (12), which stipulates that the Registrar, Labour Court or Tribunal shall not take any action or entertain any application or proceedings in respect of any matter, which falls within the jurisdiction of the Commission. The said Act of 2010 further provides for formation, registration of the Unions and the establishment of the Benches of the Industrial Relations Commission (IRC) to deal with industry-wise matters of trade unions and the IRC are empowered to make their own Regulations. The petitioner contends that decision of the Hon'ble Supreme Court reported in 2011 SCMR 1254 [Air League of PIAC Employees v. Federation of Pakistan] was ignored. The Federal Government at best could promulgate law for Islamabad Capital

Territory with branch establishment therein and ancillary branch office, establishment in at one province beyond Islamabad. Petitioner further avers that the Respondent No.1, acting as Registrar of Trade Union, conducted Judicial proceedings although his appointment as a Judicial officer to perform judicial functions as the Registrar was not made in consultation with the Hon'ble Chief Justice of Pakistan as envisaged in the law as laid down by the Honorable Supreme Court in the judgments reported in PLD 2013 SC 501 and PLJ 2013 SC 1. Thus, all the proceedings conducted by the Respondent No. 01, including registration of Respondent No.2-Union, were *corum non judice*, void and of no legal effect. According to the Petitioner-Establishment, the orders passed by the Respondent No.1, are the Registration Certificate of the said Union issued in Form "C" under NIRC (Procedure and Functions) Regulation 1973, permission to the Respondent No.2 in Case No. 02 (8)/ 2011 to participate in the Referendum proceedings and Issue of the notice under which proceedings are taking place.

The Petitioner being aggrieved by and dissatisfied with the order dated 10.10.2013 passed by the Registrar Trade Union/Respondent No.1 at Lahore in Case No.03 (36)/ 2013, has filed the instant Petition on 02.12.2014.

3. Mr. Mehmood Abdul Ghani, learned Counsel for the petitioner narrated contention of the Petitioner-Establishment highlighted in para 02 (supra) and added that NIRC (Procedures and Functions) Regulations, 1973 under which the Respondent No. 01 conducted registration proceedings was repealed vide the

Industrial Relations Ordinance, 2002 and only the “Rules” were protected, which were protected under Section 88 of the Industrial Relations Act, 2012, whereby the Industrial Relations Act, 2008 was repealed. He continued narrating that the Commission, so far, has not framed any regulations under Industrial Relations Act, 2012, published in the Gazette. Thus, all the proceedings of the Respondent No. 01 relating to registration of the Respondent No.2 Union and issue of Certificate of Registration by it, based on the NIRC (Procedure and Functions) Regulations, 1973, is illegal, ab-initio void and of no legal effect and same is liable to be set aside. Learned counsel has further contended that orders of the Respondent No. 01 are appealable before the Industrial Relations Commission. It has further been contended by the learned counsel for Petitioner-Establishment that assuming without conceding that the NIRC (Procedure and Functions) Regulations, 1973, is valid and still in existence, Regulation 13 provides that where the number of workmen in the establishment is 5000, then number of office bearers of the Union could be 25 and the decision of the Registrar of Trade Union is based on surmises, conjuncture and speculative consideration, which is liable to be set aside. Having explained his case, as above, the Counsel for the Petitioner-Establishment prays that the instant petition may be allowed.

4. Mr. M.A.K. Azmati, learned Counsel for Respondent No.2 contended that Petitioner-Establishment filed several Constitutional Petitions before this Court on the ground that the Petitioner-Establishment is a Trans-Provincial Establishment and the Industrial Relations Ordinance, 2011 & Industrial Relations Act, 2012 is ultra-vires of the Constitution of the Islamic Republic

of Pakistan, 1973. He further contended that all the Petitions were disposed of vide a common judgment dated 04.8.2014 of the Full Bench of this Court declaring that Industrial Relations Act, 2012 is a valid law. He argued that prayers in some of the petitions filed by the petitioner were for stay of the Referendum Proceedings and validity of selection of the Registrar of the Trade Unions, whereas, in the Writ Petitions before the Islamabad High Court filed by the Karachi Electric Supply Corporation Ltd, vires of the Industrial Relations Ordinance, 2011 were challenged and contended that NIRC cannot operate in respect of establishment, situated in the province of Sindh nor can exercise its jurisdiction in such matters. The Petitions were disposed of by learned High Court Islamabad vide a consolidated judgment dated 27.6.2012 (annexed to reply/comments by the Respondent No. 2), wherein, it has been declared that the Karachi Electric Supply Company Limited/ K-Electric Limited is a Trans-Provincial Establishment, as such, Industrial Relations Act, 2012 is applicable to the Petitioner-Establishment. It is further contended by the learned counsel for the Respondent-Union that no CPLA or Civil Appeal has been filed against the order dated 27.6.2012. It is next contended that the Petitioner-Establishment immediately after the judgment of the Full Bench of this Court filed a Review Petition in C.P. No.2269/2013, which was dismissed by this Court vide Judgment/order dated 15.8.2014. However, the Petitioner-Establishment filed a CPLA before the Honorable Supreme Court of Pakistan along with other petitions against the Judgment of the Full Bench of this Court dated 04.8.2014, which was admitted for hearing, but no stay was granted to M/s K. Electric Limited and

other Companies. The Counsel for the Respondent No. 2 argued that circumventing the situation the Petitioner malafidely again filed another misconceived Constitutional Petition. It is further contended that no successive petition is permissible on the same cause, but, ultimately stopped legal proceedings purported to have been initiated for protection of self-conceived fundamental rights of the workers of collective bargaining union for the last about 6 years. Lastly, learned counsel prays for dismissal of the instant petition. In support of his contention, learned Counsel for Respondent No.2 relied upon the Judgments reported as 1971 SCMR 602 [Abdul Ghafoor v. Settlement and Rehabilitation Commissioner Karachi], 2017 PLC 102 [Unilever Pakistan Foods Limited v. Registrar, Trade Unions], 2014 SCMR 535 [Pakistan Telecommunication Company Ltd. v. Member NIRC & others], 2002 PLC 145 [Muslim Commercial Bank Ltd. v. Registrar, Industry-wise Trade Union], 2011 PLC 105 [Shaheen Airport Services v. National Industrial Relations Commission through Deputy Registrar], 2014 PLC 351 [Pakistan Workers Federation, Balochistan through President Pakistan Workers Federation, Balochistan v. Government of Pakistan through Federal Secretary, Ministry of Law and Justice Islamabad], SBLR 2009 Sindh 1439 [Malik Muhammad Rasheed v. Registrar (ITU) & Chairman, NIRC], PLD 1993 Lahore 183 [Mst. Iqbal Begum v. Farooq Inayat], 2003 PLC 386 [Water and Sanitation Agency (WASA) Employees Welfare Union (LDA) v. The Registrar of Trade Unions, Lahore], 1996 SCMR 237 [Malik Gul Hassan & Co. v. Allied Bank of Pakistan], SBLR 2015 Sindh 179 [Syed Faisal Aziz v. Sindh Labour Appellate Tribunal & others], 2006 PLC 288 [Pakistan Services Limited v. Full Bench, National

Industrial Relations Commission], 1996 PLC 45 [M/s Euro Ceramics Limited v. Registrar of Trade Union], 2010 SCMR 1458 [Dr. Muhammad Amin v. President Zarai Taraqati Bank Limited], 2002 PLC 102 [S.A. Brothers (Pvt.) Limited through G.M. v. Registrar of Trade Unions, Islamabad], 1983 PLC 495 [Karachi Transport Corporation Workers' Union v. Registrar, Trade Unions, Sindh], 1996 T.D. (Labour) 195 [United Workers Front of Pakistan Steel v. Chairman National Industrial Relations Commission, Karachi], PLD 1969 Quetta 198 [Rahat Talkies v. Province of Balochistan], PLD 1975 Karachi 320 [National Bank of Pakistan, Peoples Federation v. National Industrial Relations Commission, Islamabad], 1986 SCMR 1071 [Norwich Union Fire Insurance Society Limited v. Muhammad Javed Iqbal], 2000 PSC 633 [Muhammad Ali v. Presiding Officer, Sindh Labour Court No.1], PLD 1993 Lahore 306 [Union of Civil Aviation Employees, Lahore v. Civil Aviation Authority, Islamabad], 1997 TD (Labour) 361 [MCB Staff Union v. Federation of Pakistan], 1998 SCMR 1964 [Essa Cement Industries Workers' Union v. Registrar of Trade Unions, Hyderabad Region, Hyderabad], 2014 SCMR 1676 [Pakistan Wapda Employees Pegham Union v. Member, National Industrial Relations Commission, Islamabad].

05. Mr. Farhatullah, learned Counsel for Respondent No.4 supported the impugned order dated 10.10.2013 passed by learned Registrar Trade Union/NIRC and prayed for dismissal of instant Petition. Learned counsel has contended that the instant petition is hit by the principle of res-judicata as the Issues raised in the petition have already been decided by the Honorable Supreme Court, this Court and the Islamabad High Court and the

facts have been concealed in the instant petition, therefore, it is liable to be dismissed with cost. He further argued that the Petitioner-Establishment assailed the impugned order (registration of the Respondent No. 02) in a Constitutional Petition No.D-4535 of 2013 before this Court with identical prayers and obtained an interim injunction vide order dated 04.11.2013 passed by this Court. However, this Court vide order short order dated 29.9.2014 disposed of the said petition. Since the Petitioner-Establishment did not prefer Appeal against the said short order, which attained finality; therefore, the instant petition is hit by res-judicata. He further contended that the Petitioner vide a Constitutional Petition No.D-153 of 2012, filed in this Court challenged competence of Federal Legislature to promulgate Industrial Relations Law and prayed declaration that the Registrar of NIRC has no jurisdiction in the matters of the Petitioner-Establishment. The said Constitutional Petition, alongwith a number of other petitions, was heard by the Full Bench of this Court, which vide its Judgment dated 04.8.2014, reported in PLD 2014 Sindh 553, held that the Industrial Relations Act, 2012 is a valid piece of legislation. The Court further directed that all the cases pending adjudication in the Labour Courts pertaining to Trans-Provincial Industrial and Commercial Establishments shall stand transferred to the NIRC. He argued that the petitioner through the instant petition has, in fact, attempted for review of the said Judgment of the Full Bench of this Court; it is therefore the instant petition is not maintainable and liable to be dismissed. The Counsel further argued that the Petitioner-Establishment filed six Constitutional Petitions before the High Court of Islamabad praying for declaration that the

provisions of the Industrial Relations Act, 2012 are applicable and valid to the extent of Islamabad Capital Territory and not to other provinces, including the Petitioner-Establishment. The High Court of Islamabad through a common Judgment passed in W.P. No. 3472 of 2011 and other identical petitions has held that the Petitioner-Establishment (KESC) comes within the ambit of Subsection 3 of Section 1 of the Industrial Relations Act, 2012. It is next contended that all the so-called legal questions agitated in the instant petition have already been decided, which facts have been concealed by the Petitioner, therefore, the captioned petition is liable to be dismissed. He further contended that the petition involves factual controversies, which could not be adjudicated upon in the Constitutional Jurisdiction of this Court. He disagreed with a number of K-Electric employees shown as working in the Province of Baluchistan and filed a list of 256 workers of K-Electric working in the Province of Baluchistan and narrated for the purpose of a number or percentage of workers required to qualify a company to be called a 'Trans Provincial Establishment' has not been prescribed under any law.

06. The Counsel for the Respondent No. 04 further argued that the petitioner/K-Electric was supplying electricity to big industries located in the province of Baluchistan. In prayer clause 'C' of the petition, the Petitioner has claimed that other registered Trade Union and K-Electric have not been associated while registering Respondent No.2. In this regard, the Counsel averred that the Honorable Supreme Court, as well as, High Courts have held in a number of Judgments that Registrar is not duty bound to seek assistance either of the employer or other trade unions;

hence, contention of the petitioner is not sustainable in law.

He concluded that the petitioner has not approached this Court with clean hands; but, has attempted to deprive the Respondent-Trade unions of their fundamental right; hence, the petition is liable to be dismissed. In support of his contention, the learned counsel for Respondent No.4 relied upon the judgments reported in PLD 2014 Sindh 553 [KESC and others v. NIRC and others], 2009 PLC 308 [Malik Muhammad Rasheed v. Registrar (ITU) and Chairman, NIRC], 1998 SCMR 1964 [Essa Cement Industries Workers' Union v. Registrar of Trade Unions, Hyderabad Region, Hyderabad], PLD 1978 Karachi 567 [Bata Shoes Co. Ltd. v. Registrar Trade Union of Sindh] and 1992 PLC 23 [Holiday Inn Workers' Union v. Registrar Trade Union].

07. In rebuttal, the learned Counsel for the Petitioner has contended that this Court is required to interpret the law, which is more inconsonance with the affirmed policy under statute as is understandable from its preamble; which contains object of the statute and is key to understand and interpret it.

He continued in contending that the National Industrial Relations Commissions (Procedure & Functions) Regulations 1973 were framed under IRO, 1969, which was repealed on promulgation of IRO, 2002 and "Rules" were protected, but, not the "Regulations" under which the Respondent No. 01 registered the Respondent No. 02 union. He submitted that para-wise comments of the Unions are evasive and they have not specifically denied the claims made in the petition. He further said that it is settled principle of statutory interpretation that when legislator imply certain

legislation in a particular way and omits it in its reenacted statute, it is presumed that legislature acted intentionally and purposely.

The learned Counsel for the petitioner relied upon the judgments reported as PLJ 2004 SC 719[Syed Imam Shah v. Government of N.W.F.P.], 2010 SCMR 354[Hasnat Ahmed Khan v. Institution Officer], 2013 CLD1581[Lanvin Traders, Karachi v. Presiding Officer Banking Court No.2],NLR 2016 Civil 434[Zahid Iqbal v. Hafiz Muhammad Adnan], PLJ 2016 Lahore 880[Ehsan-ul-Haq v. MCB Bank Limited], 1991 SCMR 888[KESC Progressive Workers' Union v. KESC Labour Union], PLD 1984 Karachi 292[Jang Publication Limited v. Registrar of Trade Unions, Sind], 2008 PLC 239[Mir Alam v. Registrar of Trade Union], 2007 SCMR 1380[All Pakistan Seamen's Workers Union v. Pakistan Seamen's Union].

08. Mr. Salman Talibuddin, the learned Additional Attorney General supported the contention of the learned Counsel for Respondent-Union and referred to his statement dated 11.1.2017 filed on behalf of Respondent No.1 and argued that the instant petition is not maintainable.

09. We have heard learned counsel for the parties, perused the material available on record and case law cited at the bar.

10. Foremost questions in the present proceedings are as follows: -

- (i) *Whether Petitioner-Establishment can competently approach this Court as an aggrieved party under Article 199 of the Constitution?*

- (ii) *Whether Karachi Electric Limited/ Petitioner is a Trans Provincial Organization and falls within the ambit of National Industrial Relations Act, 2012?*
- (iii) *Whether Respondent-Union is registered in accordance with Section 7 and 8 of Industrial Relations Act, 2012, as well as, under NIRC (P&F) Regulations, 1973?*
- (iv) *Whether referendum of Respondent-Union is required to be conducted within the period stipulated in the NIRC Act, 2012?*

11. First, we would like to examine the issue as to whether the instant Petition is maintainable Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973?

12. Reference is made to Article 199(1) of the Constitution of the Islamic Republic of Pakistan, 1973, reproduced as under: -

“A High Court may if it is satisfied that no other adequate remedy is provided by law:-

(a) On the application of any aggrieved party make an order—

- (i) Directing.....***
- (ii) Declaring.....”***

13. The above referred Article lays condition of satisfaction of this Court as to absence of any adequate remedy available under the law to the person/party invoking constitutional jurisdiction of this Court. Therefore, Petitioner besides being aggrieved should have *locus standi* to approach this Court under Article 199 of the Constitution. .

14. Learned counsel for the Petitioner could not advance any convincing reason to establish that the Petitioner-Establishment is an aggrieved party which can impugn registration of the Respondent-Union by the Respondent No. 01 vide Order dated

10.10.2013 in constitutional jurisdiction of this court. Hence, the instant petition is a futile exercise.

15. In so far as assertion of the learned Counsel for the Petitioner-Establishment to withhold Referendum of Respondent-Union is concerned, we do not find any justification in it. The Petitioner-Establishment has failed to make out a case for indulgence of this Court on the touchstone of Article 199 (1) of the Constitution of Islamic Republic of Pakistan, 1973.

16. On merits, we have also noticed that entire claim of the Petitioner-Establishment as asserted by the learned Counsel is firstly, that the Respondent-Union has no membership in Islamabad Capital Territory, hence, not covered by Industrial Relations Act, 2012. Secondly, Respondent-Union's registration is of no legal effect because it has disproportionate membership to claim 'Trans-Provincial' status with no representation of Baluchistan as office bearers.

17. The second question which requires decision is as to whether RespondentNo.1 has jurisdiction to adjudicate upon a matter between the parties?

18. As per record, the Petitioner-Establishment is a Trans-Provincial Establishment, therefore, in the light of decision rendered by the Hon'ble Supreme Court of Pakistan in the case reported in 2014 SCMR 535(Pakistan Telecommunication Company Limited Vs. Members of NIRC and others), Judgment dated 04.08.2014 passed by the Full Bench of this Court in C.P.

No. D-3195 of 2010 and other connected petitions reported in PLD, 2014, Sindh 553; we are of the considered view that the Respondent No.1/RTU was competent to decide the issue in hand. In support of above proposition, we refer to the definition of “Trans Provincial” Establishment given in Subsection (XXXII) of Section 2 of Industrial Relations Act, 2012 reproduced as follows: -

“trans-provincial” means any establishment, group of establishments, industry, having its branches in more than one province.”

19. Record reflects that the Petitioner-Establishment is running its business in the Provinces of Sindh and Baluchistan. The learned Division Bench of High Court, Islamabad through a common Judgment passed in Writ Petition No. 3472 of 2011 and other identical petitions has held that the Petitioner-Establishment (K-Electric) comes within the ambit of Subsection (3) of Section 1 of Industrial Relations Act, 2012, therefore, the same is a “Trans-Provincial” Establishment. The Full Bench of this Court in its Judgment dated 04.8.2014 [KESC and others Vs. N.I.R.C. & others] has held that the Industrial Relations Act, 2012 is a valid piece of legislation, therefore, we are clear in our mind to hold that Respondent No.1/National Industrial Relations Commission has jurisdiction to adjudicate upon the matter with respect to the Petitioner-Establishment. As such objection of the Petitioner regarding validity of the IRA, 2012 is not sustainable in the eyes of law. The grievance of Petitioner-Establishment in respect of legal plea taken in the instant matter is answered accordingly.

20. Reverting to the third question, we are of the considered view that consultation with the Honorable Chief Justice of Pakistan is not required for framing of rules and regulations as provided in Section 66 of IRA, 2012. Section 4 of IRA, 2012 is very clear that appointment of Registrar, Trade Union is made by the Federal Government which is bound to issue Registration Certificate of Trade Union, if, Union has fulfilled the requirement of Section 7 and 8 of IRA, 2012. Accordingly, the Registrar, Trade Union /Respondent No.1 has registered the Respondent-Union and issued Registration Certificate. Therefore, referendum is required to take place as provided under IRA, 2012.

21. Adverting to the last question as urged by the learned counsel for the Petitioner, we are of the considered view that under Industrial Relations Act, 2012 referendum of Respondent-Unions for Collective Bargaining Agent in Petitioner-Establishment is required to be conducted within the period stipulated therein, if, the Respondent-Unions fulfill the criteria as prescribed for such participation in referendum as discussed supra.

22. In our considered view, the Petitioner has failed to establish its case on merits, therefore, does not warrant interference by this Court in constitutional jurisdiction for the reasons already given herein above. Besides, the Petitioner-Establishment has already filed various petitions and the adjudication of same on the similar points of facts and law has already been done by the Competent Courts of law, therefore, no further adjudication is required on the settled issues, as the case of the Petitioner-Establishment falls within the doctrine of res-judicata.

23. In the light of above facts and circumstances, the captioned Petition is incompetent and misconceived, therefore, is accordingly dismissed with all listed application(s).

JUDGE

JUDGE

Zahid/*