

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.D-432 of 2021

Order with signature of Judge(s)

Fresh Case

1. For orders on Misc. No.1792/21.
2. For orders on Misc. No.1793/21.
3. For orders on Misc. No.1794/21.
4. For hearing of main case.

Dated : 20.01.2021

Mr. Pervaiz Khurram, advocate for the petitioner.

1. Granted.
2. Granted subject to all just exceptions.
- 3-4. It is contended *inter alia* that the petitioner is an industry-wise trade union as defined under section 2(xviii) of the Industrial Relations Act, 2012. Per learned counsel, the respondent-M/S Shaheen Airport Services authorized respondent No.3 under section 19(2) of the Industrial Relations Act, 2012 to conduct all the affairs of the referendum proceedings between the contesting union; and, respondent No.3 issued notice dated 25.09.2020 to all the concerned for holding of a joint meeting for finalization of the process of referendum proceedings; that the all codal formalities have been fulfilled, resultantly respondent No.3 has fixed the date for the secret ballot on 21.01.2021, however, the petitioner-union/daily wage, temporary / contract workers have been excluded to participate in the referendum proceedings in violation of Rule 19(5) of IRA, 2012. Learned counsel further argued that the impugned order dated 04.01.2021, whereby a list of voters has been finalized and the date for the referendum has been fixed on 21.01.2021. Per learned counsel they fulfilled the condition of section 19(4)(a) of IRA, 2012, as such they are entitled to cast votes in ensuing referendum proceedings, but respondent No.3 is bent upon to deprive them of participating in the referendum proceedings. He prayed for the direction to respondent No.3 to include the names of daily wagers/temporary/contract workers in the voters' list to participate in the referendum proceedings. In support of his contention, he relied upon the judgment passed by the Hon'ble Supreme

Court in the case of *M/S Sui Southern Gas Company Limited v. Registrar of Trade Unions and others*, 2020 PLC 153, and argued that the similar matter has already been dealt with by the Hon'ble Supreme Court about the casting of vote by the daily wagers, temporary and contract workers. He emphasized that the case of petitioner-union is akin to the case decided by the Hon'ble Supreme Court as discussed supra.

To appreciate the aforesaid factum of the case, let notice be issued to the respondents as well as to learned DAG for **25.01.2021**. Meanwhile, the names of workers of petitioner-union as given in the list (attached with the memo of the petition) shall be allowed to cast their votes, however, their votes shall be kept in a separate envelope (without ascertaining as to for whom have they voted). However, the result of votes may be tabulated but it shall not be declared.

JUDGE

JUDGE