

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Aftab Ahmed Gorar
Mr. Justice Adnan-ul-Karim Memon

C.P. No. D-1469 of 2003

(Allied Bank of Pakistan v. National Industrial Relations Commission and 03 others)

Mr. Shaukat Ali Chaudhry, advocate
Mr. Muhammad Nishat Warsi, DAG &
Mr. Ali Safdar Depar, AAG

Date of hearing: **16.02.2022**

Date of order : **17.03.2022**

ORDER

Through the instant petition, both the petitioner-bank has called in question the registration of Officers Associations by the Registrar of Industry-wise trade unions, *inter-alia*, on the ground that under the old Industrial Relation Ordinance (IRO), 1969 section 2 (26) defined a trade union to mean a combination of workers or employers, and hence both were liable to be registered under section 5 of the IRO-1969 which provided that any union may under the signature of the President and Secretary apply for registration of the same; that under the new IRO-2002, the word employer has been dropped from section 2(xxix) which defines a trade union, whereas under the new IRO 2002 an employers association cannot be registered; that the provision regarding registration is the same in both the IROs viz. section 5 of the old Ordinance and section 4 of the new Ordinance as such both impugned orders are not sustainable.

2. None present on behalf of the respondents despite service, therefore we deem it proper to hear this matter with the assistance of the learned counsel representing the petitioner-banks and learned DAG.

3. Mr. Muhammad Nishat Warsi, learned Deputy Attorney General, argued that the instant petition is not maintainable on the ground that the petitioner-bank is a trans-provincial establishment and falls within the ambit of the Act of 2012.

4. We have heard the learned counsel representing the petitioner-bank, learned DAG on the subject issue, and perused the record with their assistance.

5. Foremost questions in the present proceedings are as follows:

- i) Whether an Officer Association of the petitioner-bank can be registered under the Industrial Relation Ordinance 2002, (now repealed).
- ii) Whether Petitioner-bank has locus standi to approach this Court as an aggrieved party under Article 199 of the Constitution against the decisions of Registrar Industry-wise Trade Unions?
- iii) Whether petitioner-bank is the Trans-Provincial Organizations and fall within the ambit of National Industrial Relations Act, 2012?

- iv) Whether or not the registration of industry-wise trade unions is violative of the law; and, liable to be canceled, in view of the mandate of Section 11 of the IRA-2012?

6. Since much water has flown under the bridge, after the change of legal position, now the petitioner-bank falls within the ambit of the Act of 2012 and now to dilate upon the subject issue at this stage, would be an academic question only after enactment of IRA-2012.

7. Primarily, the main object of enactment of the IRA-2012 has been described in its preamble. Section 2 defines expressions “establishment” and “group of establishments” in clauses (x) and (xiii) respectively. An industry-wise trade union has been defined in section 2(xviii) as a trade union having its membership in more than one province in a group of establishments owned by one employer. The trade union has been defined in clause (xxxii) of section 2. Trans-provincial has been defined in clause (xxxii) of section 2 as any establishment, group of establishment, or industry having its branches in more than one province. Section 5 describes the powers and functions of the Registrar of the NIRC. Clause (a) of section 5 explicitly provides that the Registrar is empowered to register a “trade union” and to maintain a register for this purpose. The procedure and requirements for registration of a “trade union” are provided under sections 6, 7, and 8 *ibid*. Section 9 provides that after the conditions described under sections 7 and 8 have been met, the Registrar if satisfied, may issue the registration certificate. Section 10 provides that according to registering a “trade union” under section 9, the Registrar shall issue a certificate of registration. Section 11 provides for the legal framework regarding the cancellation of registration of a “trade union”. Section 54 describes the powers and functions of the NIRC. Clause (b) of Section 54 empowers the NIRC to register a “trade union” or an “industry-wise trade union” or “group of establishments” in the Islamabad Capital Territory; and, the power to register an “industry-wise trade union” under the Act of 2012 is expressly vested in the NIRC.

8. The aforesaid questions could have been determined in time, if the legal position of the case, would not have changed as discussed *supra*, more particularly the impugned action of respondent-registrar, which has lost its efficacy, because of the protection of the interim order passed by this Court at the first date of hearing on 11.9.2003 passed in CP No.S-629 of 2003, requires an academic exercise.

9. We simply dispose of this petition as having become infructuous in terms of the new enactment of the IRA-2012. The petition stands disposed of along with the pending application(s).

JUDGE

JUDGE

Nadir*