

ORDER SHEET  
HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD

C.P No.S-1385 of 2018

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DATE	ORDER WITH SIGNATURE OF JUDGE
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Syed Vizarat Hussain Zaidi, advocate for petitioner

M/s Jamshed Ahmed Faiz and Raja Hansraj, advocates for respondent No.4

Mr. Mumtaz Alam Laghari, advocate for respondent No.5

Mr. Muhammad Humayoon, advocate for respondents No.6to8

Mr. Abdul Ghaffar advocate holds brief on behalf of counsel for respondent No.9

Mr. Wali Muhammad Jamari, Assistant A.G Sindh

Date of hearing: 20.09.2021

Date of decision: 20.9.2021

**ORDER**

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**MAHMOOD A. KHAN, J.** This petition has been filed by the petitioner, who has impugned the letter bearing No.RDL-RTU(3465)/HYD/2018/816 dated 02.07.2018 (*Page-25 of the file*), whereby, the Registrar of Trade Unions, Hyderabad Region Hyderabad/respondent No.3 had restored the status of CBA certificate issued on 15.02.2017 to the union of Engro Fertilizers Ponds ETP Offsite-I & II Facilities Contractors Employees Union Daharki District Ghotki/respondent No.4, which itself based upon earlier correspondence bearing No.RDL-RTU(3465)/HYD/2018/608 dated 22.05.2018 (*Page-29 of the file*).

2. The record bears in the matter that respondent No.4 acquired the CBA certificate from respondent No.3/Registrar of Trade Unions on representation, which is said to have not qualified to the requirements of Section 6 of Sindh Industrial Relations Act, 2013 (**Act, 2013 Henceforth**), which provides that registration of Unions is available, but the CBA certificate, not present to another Union, is available only by way of successful secret ballot; however, in the present case said CBA was acquired and the petitioner had claimed that the other Unions were already present, which have been taken as respondents in the matter.

3. Learned counsel for the petitioner contends that the matters of trade unions registration and CBA are dealt with before Registrar/respondent No.3 under Section 6 to 14 of Act, 2013 and as said certificate, acquired by respondent No.4, was

misrepresentation, after issuance of show cause to the said respondent, CBA certificate was recalled and despite recalling of the same the said order has wrongly been determined by the Registrar/respondent No.3 not available to be contested before the Labour Court, which in violation of the case reported in 2018 PLC 80. It is further contended that Section 43 of the Act *ibid* is not applicable in distinction between the labour union and CBA, as there can be many labour Unions and only one CBA trade in a business entity.

4. Learned counsel for respondents No.6 to 8 supports the above contentions and has taken the stance that the matters of CBA can only be availed by respondent No.4, had it been the only Union, but where there are other Unions without contestation of secret ballot such status is not available.

5. Learned counsel for other respondents, except respondent No.4, also supported the said contentions.

6. Learned counsel for respondent No.4, by challenging the locus standi of the petitioner, contended that the petitioner being an employer cannot challenge the matter of registration of Unions or the CBA. It is also contended that the petitioner is third party contractor and the said third party contractor is replaced now and then, whereas the members of the said respondent No.4 are permanent features and where the said respondent No.4 is not allowed proper representation as a CBA, the interest of employees is not liable to be covered. It is further contended that Section 45 of the Act, 2013 provides remedies for a decision against Registrar/respondent No.3 and the Constitution Petition cannot be availed on part of the petitioner, as review was first sought by it, which according to the present arguments, was not availed in the first place as Constitution Petition is said to be only remedy. It is also contended that the employer cannot intervene into the matters formed on Unions. He also relied upon (i) 1991 PLC 727, (ii) PLD 1993 306 Lahore, (iii) 1994 PLC 323, (iv) 1998 SCMR 1964, (v) 2001 PLC 441 (vi) 2009 PLC 308, (vii) 2013 PLC 258 & (viii) 2014 PLC 382

7. Heard the learned counsel present and gone through the record. The back side of certificate of CBA issued to respondent No.4 provides list of employers, whereby employees of said Unions are engaged. During course of arguments learned counsel for respondent No.4 frequently conceded that the Unions are available in respect of all the employers except of those, who have since expired. Having gone through the relevant Sections of Act *ibid*, it bears therefrom that it cannot be put to cavil that intent of law in the matter is to provide the CBA to the employees on the basis of majority and in case there is /was no other Union the one Union needs no contestation as to the majority and in case where there are more than one Union with

the restricting clause of one fifth of total working as provided under Section 6 sub-section 2 of Act ibid, the CBA is to be determined by a majority.

8. The above understanding has not been disturbed by any of the counsel present. In the present circumstances, the impugned order is set aside alongwith subject certificate of CBA issued to respondent No.4. Consequently the matter is to be treated as pending before Registrar/Respondent No.3 for the required determination. Let the same be effected and to arrange for holding elections for the determination of CBA Union in accordance with law having majority.

9. Petition allowed to this extent only and stands disposed of accordingly with the said direction.

JUDGE

23.12.2022

The judgment was announced in court at the relevant time. This file on account of over sight having not been sent back within a reasonable time. Certified copy of this order / judgment is to be issued along with this note and as an abundant caution intimation notice be issued to the counsels / parties as to the availability also.

JUDGE

Sajjad Ali Jessar