

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No.D-1238 of 2023**

(SESSI United Staff Union Sindh and another v. Registrar of Trade Union Sindh and 07 others)

Mr. Muhammad Nishat Warsi, advocate for the petitioners

Ch. Muhammad Ashraf Khan, advocate for respondent No.5

Date of hearing  
& decision : 14.03.2023.

## **ORDER**

Through this petition, the petitioner Sindh Employee's Social Security Institution (SESSI) United Staff Union Sindh seeks directions to respondent No.1 to announce the date of election of the subject union for determination of CBA under the Sindh Industrial Relations Act, 2013 (SIRA-2013).

2. Mr. Muhammad Nishat Warsi learned counsel for the petitioner union has submitted that the tenure of respondent No.5-trade union expired on 05.4.2020; however, they are continuing to be CBA of the respondent- SESSI without determination of their status under the labor law. Learned counsel submitted that respondent No.1 may be directed to conclude the process of the referendum under law. Learned counsel referred to grounds agitated by him in the memo of the petition and submitted that respondent SESSI has violated the judgment dated 23.02.2021 passed by this court in CP No.D-5916/2017 and taking undue advantage by making appointments on contract/daily wages basis in violation of the law laid down in the aforesaid judgment. As per learned counsel, the respondent Registrar has directed respondents 2 to 4 to cooperate in the process of a referendum under SIRA-2013, however, they have failed to cooperate and even failed to provide the complete list of employees to conduct the referendum of the union for determination of fresh CBA. Learned counsel submitted that respondent No.5 has served the chartered demand to the establishment of SESSI to get the favor of the workers through their period as a Union has already expired on 04.04.2020. Learned counsel lastly submitted that election of the union has to take place first then fresh appointment, promotion, and other ancillary issues be settled later on. He prayed for allowing the petition.

3. Learned counsel representing respondent No.5 has raised the question of the maintainability of the petition. Learned counsel referred to the counter affidavit filed on behalf of respondent No.5 and submitted that the transfer and posting of the employees is the prerogative of the employer and depends upon the need and utilization of Human Resources under SIRA-2013. Learned counsel referred to Section 64 of SIRA-2013 and submitted that the respondent union is performing its function till the new Collective Bargaining Agent has been certified under the provision of SIRA-2013. He prayed for the dismissal of this petition.

4. We have heard the learned counsel for the parties present in court and have perused the record with their assistance.

5. Without touching on the merits of the case, since the issue relates to the referendum for the determination of CBA in the establishment of Sindh Employee's Social Security Institution under the provision of the SIRA-2013, let the competent authority complete the subject referendum proceedings within two months positively. The establishment of SESSI shall cooperate with the Registrar Trade Union, Sindh, in all respects under the law to facilitate to conduct of the referendum proceedings within one month positively. In the intervening period, the codal formalities shall be completed under Sindh Industrial Relations Act, 2013. The other issues raised by the petitioner shall be dealt with in separate proceedings if the petitioner files appropriate proceedings.

6. This petition stands disposed of in the above terms.

**JUDGE**

**JUDGE**

Nadir\*