

**BEFORE THE HON'BLE LABOUR COURT & INDUSTRIAL
TRIBUNAL, GURGAON
APPEAL NO. 1 OF 2013**

File
✓
10-11-2013
20-8-13

IN THE MATTER OF:-

Smt. Anannya Bhattacharjee



..... PETITIONER

Versus

Registrar of Trade Unions, Haryana

..... RESPONDENT

**Replication on behalf of the petitioner for Garment and Allied
Workers Union**

It is most respectfully submitted as under:-

Preliminary legal objections

1. That the written statement submitted by the respondent is collision of facts and total non-application of mind. Facts and evidence produced by the respondent in written statement

seems to be an effort to prevent registration of union, which is contrary to the objects and motive of the Trade Unions Act, 1926. The objects of Trade Unions Act, 1926 is to promote registration of Trade Union and regulate laws relating to registration of Trade Unions. Rejection of registration of Union on merely minor technical grounds is denial of workers fundamental right to organize and form union under Article 19(1)C of the Constitution of India and also denial of their right to collective bargaining for betterment of their working conditions, which is against the Directive Principles of State Policy and Industrial Labour Policy of India. Poor workers, who are unrepresented, voiceless and from weaker section of the society, have no hope of fighting their merciless factory owners, who are very powerful and have strong power to lobby the industry and the political system. The factory owners and management indulge in regular exploitation of workers ; Trade Unions and workers organizations are the only balancing mechanism available to provide workers' with representation and voice in the interest of the majority of the country.

2. That the written statement submitted by the respondent is incompetent with regard to law and provide no tenable grounds for rejection of union registration. In the written statement, respondent has interpreted section 4 of the Act for rejection of Trade Union, which is contrary to the motive and object of the Act. It is pertinent to mention here that Registrar



has no power to interpret the Trade Unions Act, 1926 against its objectives, which has been in the mind of the framers of the Act before yearsyears back. Its wrong interpretation could frustrate the objects of the Act in application and the Registrar is the higher authority , who , is responsible for implementation of the Act.

3. That it has been mentioned in written statement that union is not fulfilling requirement for being registered as it is not eligible according to criteria provided by section 4(2) of the Trade Union Act, 1926. According to section 4(2) of the Act:-

*Where an application has been made under sub section (1) for the registration of a Trade Union, such **application shall not be deemed to have become invalid** merely by reason of the fact that at any time after the date of the application, but before the registration of the Trade Union, some of the applicants but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.*



Neither None of any of the applicants of the Union has given notice in writing to Registrar for his dissociation with

application, nor has membership of any of the members been ceased. Seven applicants out of eight applicants are still a workman and working in different garment factories of Gurgaon. One applicant is honorary members, which is according to the provisions of the Trade Unions Act, 1926 and Constitution of the Union. According to Rule 4, 5 and 6 of the Constitution of the Union:-

4. Membership:

4.1 Any workmen employed in any capacity in any industry (listed below in the schedule) in Haryana/all India who has attained the age of 15 years shall be entitled to become ordinary member of the Union if he/she accepts rules and regulations of the Union and pays Rs 5 for membership fee and Rs 10 for admission fees at the time of admission of the union. All the members will be entitled to enjoy and exercise their membership rights as per the provision of the Trade Union Act, 1926.



4.2 The membership fee can be paid half yearly and yearly basis as per the convenience of the member.

4.3 If any member fails to pay his/her membership subscription/fee upto 6

months, his/her name automatically will be dropped from the membership list.

5 Honorary Members:

5.1 Those persons who are not eligible for admission as ordinary members under Article 4(1) above may be admitted as Honorary Members of the union for the purpose of being elected or co-opted to the executive committee of the union, subject to the provisions of section 22 of the Trade Union Act 1926.

5.2 Number of such Honorary Members will remain restricted to as provided in the Indian Trade Union Act 1926.



6 The Union will operate and function among the following **industries:**

- 6.1 Garment
- 6.2 Leather and leather garment
- 6.3 Textile and textile related
- 6.4 Home furnishing
- 6.5 Other Allied industries, etc.

Now it is crystal clear that anyone could be member of the Union, who has attained age of 15 years and working in any

garment factory of Haryana. It is an Industry based union and not a plant based union. Therefore merely by reason of termination/lock-out/closure/suspension or dismissal of relationship with one employer could not be the basise of for ceaser losing of membership of the Uunion;, apart from itin fact, if workmaan hasve joined another garment factory, then he is still a garment worker and eligible to be member of the Union. Applicant No.2 to 8, Nagendra, Ashok, Ramkaran, Mantun Giri, Pramod Kumar, Khushboo and Anwar Ansari are still working in different garment factories and could be produced at any time and examined by the Hon'ble Ccourt on the basis of documentary evidence and as per requirement.



Reply on Merits

1. That the contents of para 1 of the written statement are wrong and denied. It is specifically denied that the appellant is not authorized by the Union to file the present appeal in this Hon'ble Ccourt. It has been clearly mentioned in mandate 3 of the third general body meeting minutes, which has been already submitted here, of the Union;, Union have has authorizeds Smt. Anannya Bhattacharjee to take all the necessary steps for registration of Union and do the needful for it in the welfare of workers.

2. That the contents of para 2 of the written statement are wrong and denied. It is specifically denied that the Union is not fulfilling criteria under section 4(2) of the Trade Unions Act, 1926 and that its more than 50% of the applicants have been ceased to be a members of the Union. Applicants are working in different garment factories of Gurgaon and are eligible to be a members of the Union. They could not be considered as non-member of the Union merely by their suspension or termination or lock-out or closure; they continue to work as garment workers in the industry. This point has been clearly dealt and describe in para 3 of the replication. It is true that industrial establishment of Applicant No.2, 7 and 8 are locked-out/closed, but their relationship with employer is continuinge and they have raised Iindustrial Dispute and they are still members of the union. Ramkaran, Applicant No.4, has left a particular job, but not the Industry. He is still working in Garment factory and eligible for membership. It is not a factory based Union, in which termination leads to be cancellation of membership, rather it is an Industry based Union having wider scope for membership. It is factually wrong to suggest that Retu Singh is an applicant [don't understand] and it can be verified by filed copy of application before the Hon'ble Court. Anannya Bhattacharjee is one outsider, who is not a worker applicant, but she is a valid and honorary member according to provisions of section 22 of the



Trade Unions Act, 1926 and Rule 5 of the Constitution of the Union.

3. That the contents of para 1, 2, 3 and 4 of the reply on merits of written statement need no reply.
4. That the contents of para 5 of the reply on merits of written statement is false and it has been replied descriptively in para 3 of the replication and para 2 of on merit reply. It has been also quoted in written statement that Union is lacking support of 100 memberships. Observation about membership of appellant union is very far from reality. Union has more than 200 valid members and its membership register could be produced and examined by the Hon'ble Labour Court/Commissioner?? at any point of time. Union is willing to present list of the more than 200 workers before the Court to oppose contention of respondent that Union is lacking support of 100 workers at any point of time.
5. That the contents of para 5(I) and 5(II) of the reply on merits of written statement is false and it has been replied previously in detail. There is no need to reply again.
6. That the contents of para 5(III) of the reply on merits of written statement are false and vague. According to the requirement of



the Act, 7 workers including one honorary member have moved application for registration of Union, which is a valid application. 7 persons are those persons who are actually employed in the Industry. It is wrong to suggest that terminated workman has no right to form union and he can only raise dispute. He is a workman and can also raise dispute and also haveing fundamental right to form association. If terminated workman is working in other factory then he has also right to form Union.

7. That the contents of para 5(IV) of the reply on merits of written statement are false and distant from reality. It can be examined by the Hon'ble Ccourt by inspection of membership register of the Union. Union is also willing to produce membership register and list of more than 200 member workers of garment industry. Workers can be also produced before the Hon'ble Ccourt for examination of membership to confirm it.
8. That the contents of para 5(V) of the reply on merits of written statement are wrong and baseless. It is wrong to suggest that compliance of principle of natural justice is not required at the time of physical verification by conciliation officers. Principle of natural justice is one of the guiding principles of administration of justice, while performing administrative functions.



9. That the contents of para 5(VI), VII, VIII, IX of the written statement need no reply. The contents of para X and XI are wrong and replied in previous para.

It is therefore prayed that this Hon'ble Ccourt may be pleased to allow the above appeal by setting aside the impugned order of the Registrar and direct the respondent to register the Garment and Allied Workers Uunion under section 8 of the Trade Unions Act, 1926.

Counsel for Appellant

Appellant

[V.K. Behera]

Advocate

Anannya Bhattacharjee

Dated 26.07.13

I, Anannya Bbhattacharjee D/o- Dilip Kumar Bhattacharjee do hereby verify that the contents of the replication para 1 to 3 and para 1 to para 9 are true and correct to the best of my knowledge and nothing material information has been concealed there from.



Appellant

Anannya Bhattacharjee

BEFORE THE HON'BLE LABOUR COURT & INDUSTRIAL
TRIBUNAL, GURGAON
APPEAL NO. 1 OF 2013

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Counsel for Appellant

Appellant

| V.K. Banerjee |
Advocate

Anannya Bhattacharjee

Dated 26.07.13

I, Anannya Bhattacharjee D/o- Dilip Kumar Bhattacharjee do hereby verify that the contents of the replication para 1 to 3 and para 1 to para 9 are true and correct to the best of my knowledge and nothing material information has been concealed there from.



Appellant

Anannya Bhattacharjee

Before the Hon'ble Presiding Officer
Labour Court - II, Gurgaon, Haryana

In the matter of

Anannya Bhattacharjee
vs

Registrar Union

file
23-5-14

Sub: Memo for Appearance

It is respectfully submitted before the Hon'ble Court that the petitioner is out of station and advocate engaged in this case is now no more representing this case. I will file the authority letter on the next due date.

Therefore, I request Hon'ble Court to consider the same.

Yours obedient

Gunjan Singh

23-05-2014



Before the Hon'ble Presiding Officer
Industrial Tribunal cum Labour Court
Gurgaon; Haryana

In the matter of:

file
3
12-9-14

Anannya Bhattacharjee

vs

Registrar; Trade Union

Sub: Memo for Appearance

It is respectfully submitted as under:-

I am tendering memo for appearance
on behalf of petitioner Ms. Anannya
Bhattacharjee, as she is out of
station today. I will file my
authentic letter on next due date.

Gurjan Singh



12/09/2014

(A-R for Petitioner)

Ananya Bhattacharjee v/s Registrar of Pw

A1/13

Pw-I employee Ashok Mohan Babuam aged 32 years
elected General Secretary. Harman and Alwar
Workers Union (Hereinafter referred to as ^{CrAWU} OWA)
R/o B. B. B. Dist. Jampur (U.P.)

एक न्यायिक आदेश में अर्जेंट दिनांक में अर्जेंट दिनांक पर ए.प.व.-
का Documents ए.प.व.-1/A & ए.प.व.-1/A का प्रमाण ~~का प्रमाण~~
में अर्जेंट दिनांक में प्रमाण!

xxx Bar has suspended the work there for
the next date fixed to cross examination

Res Ac
for
13/3/2015



Ajaya Bhatnagar
for the PW
13-3-15