

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-409 of 2010

Present: Mr. Justice Nazar Akbar

Petitioner No.1 : Haji Raazim and Khan,
Petitioner No.2 : Mutahida Tele Staff Union,
Through Mr. Ashraf Hussain Rizvi,
advocate.

Versus

Respondent No.1 : Province of Sindh through
Secretary to the Government of Sindh.
(Nemo)
Respondent No.2 : Registrar of Trade Unions
(Nemo)
Respondent No.3 : Joint Director Labour East Division,
(Nemo)
Respondent No.4 : Mr. Najibullah Narejo,
(Nemo)

Date of hearing : **11.12.2018**

Date of decision : **21.01.2019**

J U D G M E N T

NAZAR AKBAR,J:- The Petitioner on the basis of registration certificate of Labour Union Mutahida Tele Staff Union Port Qasim Karachi issued on **24.10.1995** has filed this constitution petition with the following prayer.

- i. That Mutahida Tele Staff Union Port Qasim (Registered No.0017) continues to exist as a duly registered Trade Union.
- ii. That the alleged cancellation order, if any, is without jurisdiction, contrary to the law and in gross violation of the Principles of Natural Justice, therefore, such order, if any, is deemed to be non-existent, a nullity in law and ab-initio void, and
- iii. To pass such other order(s), and grant such other relief, as this Hon'ble Court may deem just

and proper, in the nature and circumstances of the case.

2. It is contended in the petition that he had been unofficially, orally informed that registration of trade union under IRO has been cancelled. Such information was received by the petitioner on or about **06.2.2010** but no order was ever given to him and therefore, on **29.4.2010** the instant petition was filed. His prayer No.2 reproduced above that whatever may be the order it should be deemed to have been an-initio void and nullity in law was totally misconceived, Court cannot set-aside an order not placed before the Court. Impugned order is supposed to be specific so that Court before taking cognizance examine question of limitation, if any, and jurisdiction of Court.

3. Respondents No.1, 2 and 3 separately filed their comments which were received by the counsel for the petitioner on **13.12.2010** as per order sheet, and the comments from Respondent No. 1 contained on order dated **26.10.2005** by the Registrar of Trade Union Sindh whereby registration was cancelled and the petitioner was accordingly informed about the cancellation of the union. The respondent has also filed reply to the petitioner's letter dated **22.5.2008**, which the petitioner has filed with the memo of petition and claimed that it has not been replied. In the rejoinder the petitioner simply stated that same were not served to the union and that the same can be challenged being after thought. Be that as it may, merely by declaring that the cancellation was not received by the Union and also that even the reply of the letter about submission of annual returns and change of Registered office dated **22.5.2008** does not mean that such documents had no legal bearing on the case of the petitioner.

4. To my surprise since **December, 2010** when the official order of cancellation of registration of Trade Union was received through Court, the petitioner should have amended the petition to impugn it but till date it is not done. It is not denied by the petitioner that there has been an election after **2008**. The petitioner has not disputed that the result of election in which the petitioner has participated on **27.8.2005**, his trade union has acquired only one vote which was far below the requirement of law for keeping the registration of union intact. The petitioner has not approached this Court with unclean hand as the petitioner has challenged the cancellation of registration of union which was cancelled in **2005** by operation of law after the election of trade union in the Establishment Cargo Handling Companies Working/Operating in Port Qasim, Karachi. After three years of such failure of the petitioner to sustain his registration, he has filed annual returns in **2008** through a letter dated **22.5.2008**. The very fact that annual returns for the years **2006 & 2007** have not been filed shows that the petitioner knew that the petitioner's union has already lost its registration by virtue of election in terms of IRO. Even the contention that no reply of letter from respondent was received by him was not confidence inspiring. The purpose of approaching the High Court without impugned order was to defeat limitation, if any, against the cancellation order dated **25.10.2005** and in same fashion to contest the reply from the Respondent on the annual return filed by him in **2008**.

5. In view of the above facts and circumstances, this petition is dismissed having no merit.

J U D G E

Karachi
Dated:21.01.2019

SM