



GAUHATI HIGH COURT
Hon'ble Mr. Michael Zothankhuma, J.
WP(C) 5237/2013, Dt/- 15-5-2025

M/s. Down Town Hospital Ltd.
v.
The State of Assam and Others

TRADE UNIONS ACT, 1926 – Section 2(qq) – Unregistered Trade Union – Scope of its power – Tribunal held that an unregistered trade union can represent its members, in terms of the judgment of the Supreme Court in the case of *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees Association & Ors.*, (2006) 11 SCC 731(2), holding the Reference as maintainable – Petitioner has challenged order of Tribunal in writ petition – **Held, section 2(qq) of the Act states that “Trade union” means a trade union registered under the Act, 1926 – As per provisions of the Industrial Disputes Act, 1947 the workman who is a party to dispute shall be entitled to be represented in any proceedings under this Act by any member of the executive or other office bearer of a registered trade union of which he is a member or by any member of the executive or other office bearer of a federation of trade unions to which the trade unions referred to in clause A is affiliated – The writ petitioner union made a false averment that it is a registered trade union – The petitioner is a registered Trade Union of employees of 2nd respondent Karnataka Urban Water Supply & Drainage Board constituted under the Karnataka Urban Water Supply, and Drainage Board Act, 1973 – A perusal of section 2(qq) of the Act and the judgment of the Supreme Court clearly goes to show that it is only a registered trade union, who can espouse the cause of a member of the trade union and as the Down Town Hospital Limited Employees Union is not a registered trade union, it cannot espouse the cause of the respondent No. 4 – As such, the finding of the Tribunal in the impugned order is not sustainable – Impugned order is set aside. Paras 6 to 8**

For Petitioner(s): Mr. N. Deka, Advocate.

For Respondent Nos. 1 & 2: Mr. K. Gogoi, Advocate.

IMPORTANT POINTS

- Only a registered trade union can espouse the cause of a member of the trade union.
- When a trade union is not registered, it cannot espouse an industrial dispute on behalf of a member-workman.

JUDGMENT and ORDER (Oral)

1. Heard Mr. N. Deka, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned counsel for the respondent Nos. 1 & 2. No one appears on behalf of the respondent Nos. 4 & 5.

2. It is also seen that newspaper publication had been made in respect of respondent No. 5. Further the Lawazima Court order dated 21-08-2024 states that service in respect of respondent No. 5 has been completed.

3. The matter relates to an order dated 20-08-2013, passed by the learned Tribunal, Guwahati in Reference Case No. 2/2011, by which it has been held that an unregistered trade union can represent its members, in terms of the judgment of the Supreme Court in the case of *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees Association & Ors.*, (2006) 11 SCC 731(2). The learned Tribunal, vide the impugned order dated 20-08-2013 thus held that the Reference Case No. 2/2011 was maintainable.

4. The petitioner's counsel submits that a perusal of section 2(qq) of the Industrial Disputes Act, 1947 (hereinafter referred to as the “Act”) and a reading of the judgment of the Supreme Court in *B. Srinivasa Reddy* (supra), clearly shows that the learned Tribunal has completely misread the provisions of section 2(qq) of the Act, inasmuch as, an unregistered Trade Union cannot represent its members.

5. Mr. K. Gogoi, learned counsel for the respondent Nos. 1 & 2 also submits that the learned Tribunal has made a mistake in coming to a finding that an unregistered trade union can espouse the cause of a employee of the trade union, in view of section 2(qq) of the Act and the judgment of the Supreme Court mentioned above.

6. Section 2(qq) of the Act states as follows:–

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“Trade union” means a trade union registered under the Trade Unions Act, 1926

7. Further para 37 of the judgment in *B. Srinivasa Reddy* (supra) states as follows:—

“37. We shall now advert to the provisions of the Industrial Disputes Act with reference to the registration of Trade Unions. Section 2(q)(q) defines trade union which means a trade union registered under the Trade Unions Act, 1926 (16 of 1926). Section 36 of the Industrial Disputes Act, 1947 says that the workman who is a party to dispute shall be entitled to be represented in any proceedings under this Act by any member of the executive or other office bearer of a registered trade union of which he is a member or by any member of the executive or other office bearer of a federation of trade unions to which the trade unions referred to in clause A is affiliated. The writ petitioner union made a false averment that it is a registered trade union that itself, in our opinion, is a ground to dismiss the writ petition. The writ petitioner has made an averment to the following effect in its writ petition which is also reflected in the order passed by the High Court in the writ petition which runs thus:

The petitioner is a registered Trade Union of employees of 2nd respondent Karnataka Urban Water Supply & Drainage Board (hereinafter referred to as ‘the Board’) constituted under the Karnataka Urban Water Supply and Drainage Board Act, 1973 (hereinafter referred to as ‘the Act’).”

8. A perusal of section 2(qq) of the Act and the judgment of the Supreme Court clearly goes to show that it is only a registered trade union, who can espouse the cause of a member of the trade union and as the Down Town Hospital Limited Employees Union is not a registered trade union, it cannot espouse the cause of the respondent No. 4. As such, the finding of the learned Tribunal in the impugned order dated 20-08-2013 is not sustainable. The order dated 20-08-2013 passed by the learned Tribunal, Guwahati in Reference Case No. 2/2011 is accordingly set aside.

9. The writ petition is accordingly allowed and disposed of.

Ref: LLR

If you have any questions, feel free to reach out to us on WhatsApp at Jay Shah - +91 9167121333