

## CIVIL MISCELLANEOUS

*Before Prem Chand Jain, J.*

RAM KUMAR ETC.,—Petitioners.

*versus*

THE STATE OF HARYANA ETC.,—Respondents.

Civil Writ No. 1859 of 1971.

August 17, 1971.

*Industrial Disputes Act (XIV of 1947)—Section 3—Industrial Disputes (Punjab) Rules (1958)—Rule 57—Works Committee constituted under section 3—Power of dissolution of such Committee under rule 57—Whether of quasi-judicial nature—Opportunity of hearing before the dissolution—Whether to be given to the members of the Committee.*

Held, that rule 57 of Industrial Disputes (Punjab) Rules, 1958, does not require that any opportunity should be given to the elected members of the Works Committee constituted under section 3 of the Industrial Disputes Act, 1947, to show cause against its dissolution, but that by itself is not sufficient to hold that it is not necessary to issue notice and hear the persons against whom an order under the rule is to be passed. Where the power is conferred on an appropriate authority to determine a matter the result of which would prejudicially affect the right of a person then it can justifiably be inferred that a duty is impliedly imposed on that authority to exercise power in conformity with the principles of natural justice. The powers exercisable by an appropriate authority under rule 57 are of a quasi-judicial nature. It is, therefore, incumbent on the appropriate authority to follow rules of natural justice and must give an opportunity to the members of the Works Committee before proceeding under this rule. If this opportunity is given, the members may be in a position to convince the appropriate authority that none of the conditions mentioned in this rule exists for ordering the dissolution of the Committee. (Para 6).

*Petition under Articles 226 and 227 of the Constitution of India, praying that a Writ of Certiorari, Mandamus or any other appropriate writ, order or direction be issued quashing the orders of the Government-Respondent No. 1—No. ID/WC/1-10898 published in Haryana Government Gazette (Extraordinary) dated 14th April, 1971 (Annexure 'D') and further praying that pending the final disposal of the writ petition in the Hon'ble Court, the operation and implementation of the impugned order (Annexure 'D') be stayed. The petitioners as members of the duly elected Works Committee are still in office.*

A. S. Anand, Advocate, for the petitioners.

M. L. Sarpal, Advocate for Respondent No. 3.

D. S. Lamba, Deputy Advocate-General (Haryana) for respondent Nos. 1-2.

Ram Kumar etc. v. The State of Haryana etc. (Jain, J.)

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### JUDGMENT

JAIN, J.—(1) Ram Kumar and two others have filed this petition under Articles 226 and 227 of the Constitution of India for the issuance of an appropriate writ, order or direction quashing the order of respondent No. 1 published in the Haryana Government Gazette (Extraordinary), dated 14th April, 1971 (copy Annexure 'D' to the petition).

(2) The facts of this case may be stated thus:—

The petitioners are the employees of Messrs Hissar Textile Mills, Hissar (hereinafter referred to as the Textile Mills). Petitioner No. 1 is the President of the Hissar Textile Mazdoor Sabha, while petitioner No. 3 is a member of the Hissar Textile Mills Workers Union. The Textile Mills were required by the Government of Haryana to constitute works Committee in accordance with the provisions of section 3 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) and the rules made thereunder. After giving details as to how the election to the Works Committee took place, it is stated in the petition that petitioners 1 to 3 along with Sewa Ram, Kanwar Sain, Bagru Mal and Birbal Sharma were duly elected as members of the Works Committee as representatives of the employees. It is further stated that the Manager of the Textile Mills, respondent No. 3 nominated seven members of the Works Committee in accordance with rule 39 of the Industrial Disputes (Punjab) Rules, 1958 (hereinafter referred to as the Rules). A works Committee was accordingly constituted comprising 14 members and from amongst its members, petitioner No. 3 was elected the Vice-Chairman of the Works Committee. The Works Committee so constituted, continued to function in accordance with Rules quite properly till 14th April, 1971, when to great surprise of the petitioners, the impugned order was issued and published in the Haryana Government Gazette (Extraordinary) wherein it was stated that the Works Committee was dissolved by virtue of the powers conferred by rule 57 of the Rules (copy Annexure 'D' to the petition). It is this notification the legality of which has been challenged by way of this petition on various grounds."

(3) Written statement by way of an affidavit has been filed by Vimal Krishan Khanna, Manager, Hissar Textile Mills, respondent No. 5.

(4) It was contended by Dr. Anand, learned counsel for the petitioners, that the impugned order by which the Works Committee of the Textile Mills was dissolved, was illegal and without jurisdiction as it infringed the principles of natural justice. According to the learned counsel, the impugned order could not legally be sustained as it was passed without hearing the petitioners and had been based on an enquiry with which the petitioners were never associated. It may be stated that the learned Deputy Advocate General appearing on behalf of respondents 1 and 2 and Mr. M. L. Sarpal, learned counsel appearing on behalf of respondent No. 3, conceded that the impugned order could not legally be sustained; however, as the question posed before me involved an important law point, I decided to judge its correctness independently.

(5) After giving my thoughtful consideration to the entire matter, I am of the view that there is considerable force in the contentions of learned counsel for the petitioners. From the facts which were not disputed before me it is clear that the petitioners were not afforded any opportunity of hearing prior to the passing of the impugned order nor were they associated with the enquiry on the basis of which the impugned order was passed. They Works Committee was dissolved by virtue of powers conferred by rule 57 of the Rules which read as under :—

57. *Dissolution of Works Committee.*

The State Government, or where the power under section 3 has been delegated to any officer or authority under section 39, such officer or authority may, after making such inquiry as it or he may deem fit, dissolve any Works Committee at any time, by an order in writing, if he or it is satisfied that Committee has not been constituted in accordance with these rules or that not less than two-thirds of the number of representatives of the workmen have, without any reasonable justification failed to attend three consecutive meetings of the Committee or that the Committee has, for any other reason, ceased to function:

Provided that where a Works Committee is dissolved under this rule, the employer may, and if so required by the

State Government or, as the case may be, by such officer or authority, shall take steps to reconstitute the Committee in accordance with these rules.”

The power of dissolution can be exercised by the appropriate authority subject to the conditions mentioned in the rule, viz., (i) that the Committee has not been constituted in accordance with the rules or (ii) that not less than two thirds of the number of representatives of the workmen have, without any reasonable justification failed to attend the meeting of the Committee or (iii) that the Committee has for any other reason, ceased to function. For the purposes of finding out if any of the conditions for the dissolution exists, the appropriate authority is given power to make such enquiry as it may deem fit. The power conferred by the rule is circumscribed and cannot be exercised outside the matters specified therein. The power cannot be exercised arbitrarily. If opportunity is given to the members of the Works Committee, they may be in a position to convince the appropriate authority that none of the conditions exists. Further they may bring out circumstances which may convince the appropriate authority not to take the drastic step of dissolving the Works Committee. To dissolve a Works Committee which is constituted of elected members also, is a very serious matter as it deprives the elected members of their right to remain on the Works Committee.

(6) It is true that the rule in turn does not require that any opportunity should be given to the elected members of the Works Committee to show cause against the dissolution of the Works Committee, but that by itself would not be sufficient to hold that it is not necessary to issue notice and hear the persons against whom an order under that rule is to be passed. Where the power is conferred on an appropriate authority to determine a matter the result of which would prejudicially affect the right of a person then it can justifiably be inferred that a duty is impliedly imposed on that authority to exercise power in conformity with the principles of natural justice. In such circumstances, as observed by their Lordships of the Supreme Court in *Lala Shri Bhagwan and another v. Ram Chand and another* (1), the very nature of the power would inevitably impose the limitation that the power should be exercised in conformity with the principles of natural justice. In this view of the matter, the only conclusion that is possible for me to arrive at, is that the powers

(1) A.I.R. 1965 S.C. 1767.

exercisable by an appropriate authority under rule 57 of the Rules are of a quasi-judicial nature and that before proceeding under that rule it is incumbent on the appropriate authority to follow rules of natural justice and must give an opportunity to the members of the Works Committee to meet the case which may be set up against them. As in the instant case this opportunity was not given to the petitioners, it has to be held that dissolution of the Works Committee was invalid and void. The view I have taken finds full support from a Division Bench decision of the Mysore High Court in *Peerjade Husen Sab Mohadin v. Commissioner of Labour, Bangalore, and others*, (2), where on exactly a similar question it was observed thus:—

“Then, dealing with the first contention of the learned counsel for the petitioner that no notice was served on his client before setting aside his election to the works committee, it is clear that respondent 1's action violates the principles of natural justice. There is no dispute that no notice has been issued to the petitioner in this case. It is well-settled that no order could be passed affecting a person without hearing him. The petitioner, having been declared duly elected to the works committee, acquired certain rights of which he cannot be deprived without due notice to him.”

(7) No other point was urged.

(8) For the reasons recorded above I allow this petition and quash the impugned order, dated 14th April, 1971 (copy Annexure 'D' to the petition). As the petition was not opposed on behalf of the respondents, I make no order as to costs.

B. S. G.

REVISIONAL CIVIL

Before Harbans Singh, C.J.

CHHIMA DEVI,—Petitioner.

versus

DEVI DASS,—Respondent.

Civil Revision No. 49 of 1971.

August 19, 1971.

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2) (i), Proviso—Ejectment application on the ground of non-payment of rent—On the first date of hearing of the application, tenant tendering rent not*