

Present:

Mr. Justice Mohammad Bazlur Rahman
and

Mr. Justice Md. Ruhul Quddus

Writ Petition No.704 of 2012

Md. Abadur Rahman

...Petitioner

-Versus-

The Chairman, Second Labour Court, Dhaka and
others

...Respondents

Mr. Mahbubul Haque with Mr. Md. Abdul Hye
Bhuiyan, Advocates

... for the petitioners

Mr. A.M. Aminuddin with Mr. Yousuf Khan Rajib,
Advocates

... for respondents 2-4

Judgment on 05.06.2013

Md. Ruhul Quddus, J:

This Rule was issued challenging order dated 15.01.2012 passed by the Second Labour Court, Dhaka in B.L.A Case No. 276 of 2011 rejecting an application for temporary injunction filed by the petitioner.

The petitioner was elected as the President of Bangladesh Biman Sramik Union (Reg. No. B-1308) with respondent 2 Md. Rustum Ali as its General Secretary for two years on 24.04.2009. A meeting of the Executive Committee of the Trade Union presided over by him was held on 10.10.2011 in presence of respondents 2-3, wherein it was decided that he would form a sub-committee for holding its next election. Subsequently another meeting was held on 30.10.2011, where the General Secretary (herein respondent 2) and three other office bearers

misbehaved with him, for which he (petitioner) suspended them exercising the power under article 14(5) of the Constitution of the Trade Union. Following the event respondent 2 in collusion with respondents 3-4 sent a telex on 31.10.2011 showing a false meeting allegedly removing the petitioner from his post purportedly under article 14(5) of the Constitution of the Trade Union and co-opting respondent 4 as its Acting President. Thereafter, respondent 2 wrote a letter on 02.11.2011 to the Management of Bangladesh Biman stating, *inter alia*, that the petitioner was removed from his post. The petitioner after procuring photocopies of the telex and letter, sent a legal notice to respondent 2 asking him to cancel the same. In response thereto, respondent 2 sent a reply refusing to do so. In that event the petitioner filed BLA Case No. 276 of 2011 before the Second Labour Court, Dhaka challenging the illegal telex regarding his removal. Subsequently he filed an application for temporary injunction to restrain respondents 3-4 from functioning as the President and Acting President respectively of the Trade Union.

The Labour Court had issued show cause notice on the said application passing an interim order of statusquo directing respondents 2-4 not to disturb the petitioner in his functioning as President of the Trade Union, but ultimately rejected the application by his order dated 15.01.2012. Being aggrieved thereby the petitioner moved in this Court with the instant writ petition, obtained the Rule with an order staying the telex dated 31.10.2011 and letter dated 02.11.2011.

Respondents 2-4 contest the Rule by filling an affidavit-in-opposition denying the material allegations of the writ petition contending, *inter alia*, that the petitioner was illegally occupying the post of President of Bangladesh

Biman Sramik Union even after expiry of his tenure. He was removed from the post under the provision of article 14(5) of its Constitution and a resolution for his removal was also taken in a no-confidence motion.

Mr. Mahabubul Hoque, learned Advocate for the petitioner submits that he was the elected President of the Trade Union in question. While he was functioning in such capacity, the General Secretary (respondent 2) in collusion with some other office bearers hatched up a conspiracy to oust him from the office and sent a telex message regarding his alleged removal. Unless the said telex message as well as the aforesaid letter dated 02.11.2011 are stayed and the respondents are restrained from functioning as the Acting President and General Secretary of the Trade Union, the purpose of filing the B. L. A. case will be frustrated.

Mr. Hoque further submits that the Labour Court has taken an erroneous view on article 14 (5) of the Constitution and committed gross illegality in passing the impugned order.

Mr. Yousuf Khan Rajib, learned Advocate for respondents 2-4 submits that after expiry of the tenure of two years as stipulated in the Constitution, the petitioner has lost his force to function as President of the Trade Union in question. The application for injunction has, therefore, become redundant. Moreover, during pendency of the Rule the next election of the Trade Union has also been held, although the committee elect has not been able to function because of the stay order granted by this Court.

We have gone through the Constitution of the Trade Union, consulted the law and examined the documents annexed. On a query made by the Court, Mr. Hoque apprises that a state of *statusquo* is being maintained in the affairs of the

Trade Union because of the stay order of this Court. Under the circumstances though we find some infirmity in the impugned order, refrain ourselves from making any comment thereon as it may affect the case on merit. However, since the B.L.A. case is still pending before the Labour Court, we are of the view that the instant Rule should be disposed of with an order of *statusquo* and direction for expeditious disposal of the case.

Accordingly, the Rule is disposed of. The parties are directed to maintain *statusquo* in respect of their original positions in the Trade Union in question. The impugned order of the Labour Court is modified to that effect. The Second Labour Court, Dhaka is directed to dispose of B.L.A. Case No. 276 of 2011 (Md. Abadur Rahman Vs. Md. Rustam Ali and others) as expeditiously as possible preferably within four months from receipt of this judgment without giving any further adjournment, if it is not necessary under any unavoidable reason.

Mohammad Bazlur Rahman, J:

I agree.