

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE A.M. SHAFFIQUE

Wednesday, the 4th day of September 2013/13th Bhadra, 1935

IA.10908/2013 IN WP(C) No.13605/2013(A)

PETITIONER/3RD RESPONDENT IN WPC:

BSNL EMPLOYEES UNION, DADA GOSH BHAVAN,
2151/1, NEW PATEL NAGAR ROAD, NEW DELHI-110 008,
REPRESENTED BY ITS ASSISTANT GENERAL SECRETARY.

RESPONDENTS/PETITIONERS AND RESPONDENTS NO.1,2 AND 4 IN WPC:

1. THE NATIONAL UNION OF BSNL WORKERS (FNTO)
T 16, ATUL GROVE, NEW DELHI-110001,
REPRESENTED BY ITS ASSISTANT GENERAL SECRETARY,
SRI.GOPAKUMAR K.K.,
RESIDING AT "PREMA LAKSHMY", B T S ROAD, EDAPPALLY,
KOCHI-682024.
2. D.CHANDRASEKHARAN,
RESIDING AT 1/15 KESAVA PILLAI STREET, 1ST CROSS
DKM COLLEGE ROAD, SAINATAPURAM, VELLORE 632001,
TAMIL NADU (ASSISTANT GENERAL SECRETARY,
THE NATIONAL UNION OF BSNL WORKERS (F N T O) T 16
ATUL GROVE, NEW DELHI-110 001.
3. UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY,
ELECTRONICS NIKETHAN, LODHI ROAD, NEW DELHI-110003.
4. BHARAT SANCHAR NIGAM LIMITED,
(A GOVERNMENT OF INDIA ENTERPRISE)
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
BSNL CORPORATE OFFICE, 8TH FLOOR,
BHARAT SANCHAR BHAWAN, HARISH CHANDER MATHUR LANE,
JANPATH, NEW DELHI 110001.
5. NATIONAL FEDERATION OF TELECOM EMPLOYEES (BSNL)
REPRESENTED BY ITS GENERAL SECRETARY, NO.C-4/1
BANGLA SAHEB ROAD, NEW DELHI 110001.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to vacate the interim order dated 30.5.2013.

This application coming on for orders upon perusing the application and the affidavit filed in support thereof and this Court's order dated 30.5.2013 in WP(C) and upon hearing the arguments of M/s.Hariraj, P.A.Kumaran, Vineetha B, Nirmal S.Nair, K.Rajagopal and Jinsa Mol M.A , Advocates for the petitioner in IA/R3 in WP(C), M/s.S.M.Prasanth & Smitha George, Advocates for R1 & R2 in IA/Petitioners in WP(C), Sri.P.Parameswaran Nair, Assistant Solicitor General of India for R3 in IA/R1 in WP(C) and of Sri.Saji Varghese, Standing Counsel for R4 in IA/R2 in WP(C), the court passed the following:

A.M. SHAFFIQUE,J.

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I.A. NO. 10908 OF 2013 IN
W.P.(C) NO. 13605 of 2013
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Dated this the 4th day of September 2013

ORDER

This is an application filed by the third respondent in the writ petition to vacate the interim order dated 30.05.2013 which reads as under:

“Admit. Asst.Solicitor General of India takes notice for R1. Standing Counsel Sri Mathews K.Philip takes notice for R2. Urgent notice by speed post to R3 & R4.

There will be an interim direction to the second respondent not to induct or grant membership to anyone of the Unions which has not secured the prescribed 7% votes in the referendum.”

2. The main contention urged by the petitioner in the writ petition is that during the referendum, the Union got 6.89% votes and the same has to be rounded off to 7%. That apart, a contention has been raised that the 3rd and 4th respondents are

nominating members who do not belong to their Unions, though they have more than 7%. This Court had while issuing the interim order directed the 2nd respondent not to induct or grant membership to anyone of the Unions which has not secured the prescribed 7% votes in the referendum. Admittedly for a Union to nominate a member to the various councils acquiring 7% of the votes is the mandate. That being the position, I do not find anything wrong with the interim order, but in view of the doubt expressed by the learned counsel for the 3rd respondent, I clarify that the direction to the 2nd respondent is not to accept nomination of anyone of the Unions which has not secured 7% votes in the referendum. If the qualified Unions give any such nomination, it shall be open for BSNL to take appropriate decision in the matter.

Post after Onam vacation for hearing.

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A. M. Shaffiqe (Judge)

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Assistant Registrar

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