

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P. No.1905 of 2021  
Sui Southern Gas Officers Association  
**Versus**  
Federation of Pakistan and others

S. No. of order / proceedings	Date of order / Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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**24.06.2021**

Sheikh Riaz ul Haque and Mrs. Rabiah Iqbal, Advocates for the petitioner.  
Mr. Arshid Mahmood Kiani, learned Deputy Attorney General.  
Mr. Faisal Mahmood Ghani, Advocate for respondent No.4.

Through the instant writ petition, the petitioner, Sui Southern Gas Officers Association, assails the order dated 03.05.2021 passed by the learned Member, National Industrial Relations Commission (“N.I.R.C.”), accepting the application filed by respondent No.4 (Sui Southern Gas Company Ltd.) for the cancellation of the petitioner’s registration as a trade union.

2. Learned counsel for the petitioner submits that the petitioner has already preferred an appeal under Section 58(2) of the Industrial Relations Act, 2012 (“the 2012 Act”) against the said order but due to non-availability of learned Full Bench, N.I.R.C., neither the said appeal nor the application for the injunction filed along with the said appeal has been taken up for hearing. The attention of the Court was drawn to Section 11(2) of the 2012 Act, which provides that where the Registrar is of the opinion that the registration of a trade union should be cancelled, he shall submit an application to the Commission praying for permission to cancel such registration. The impugned order has not been passed by the Registrar but by the Commission itself. Under Section 11(2) *ibid*, the Commission is only to grant

permission for cancellation, and cannot itself cancel the registration. Learned counsel for the petitioner prayed for this petition to be disposed of by suspending the operation of the impugned order dated 03.05.2021 until the petitioner's appeal is taken up for hearing before the learned Full Bench, N.I.R.C.

3. On the other hand, learned counsel for respondent No.4 drew the attention of the Court to the petitioner's reply to respondent No.4's application for the cancellation of the petitioner's registration filed before the N.I.R.C., and submitted that in the said reply, no objection was taken to the jurisdiction of the N.I.R.C. to cancel the petitioner's registration; that the petitioner had not conducted the elections after 2013/2014 and has also not filed its annual returns; that the said omission on the part of the petitioner constitutes a violation of the requirements of the 2012 Act; and that the impugned order passed by the learned Member, N.I.R.C. does not suffer from any jurisdictional infirmity so as to warrant interference in the Constitutional jurisdiction of this Court. Learned counsel for respondent No.4 prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The petitioner's basic argument is that since the petitioner was registered by the Registrar Trade Union ("R.T.U."), the learned Member, N.I.R.C. could not pass an order for its cancellation, and that an application under Section 11 of the 2012 Act for the cancellation of a true trade union is to be filed before the R.T.U.

6. This Court, in its judgment dated 21.01.2020 passed in writ petition No.2188/2019, titled

“Chevron Pakistan Lubricants (Private) Limited Vs. Federation of Pakistan, etc.”, has interpreted *inter alia* Section 11 of the 2012 Act in the following terms:

*“7. A plain reading of the above noted provisions shows that the legislature has unambiguously intended to treat a “trade union” and “industry-wise trade union” as distinct entities. They have been defined separately and the definition of a “trade union” does not include “industry-wise trade union”. The power of the Registrar in the context of granting registration to an entity under the Act of 2012 has been explicitly restricted to a “trade union”. The Commission however has concurrent jurisdiction. The powers of the Registrar describe under the Act of 2012, by no stretch of the imagination can be extended to registration of “industry-wise trade union”, which has been treated as a distinct entity. The power to grant registration to the latter category of union has been expressly provided under clause (b) of section 54 and it exclusively vests in the Commission. The learned counsel for the respondents has argued that since the provisions of the Act of 2012 do not contemplate cancellation of a registered “industry-wise trade union”, therefore, as a corollary the power shall deem to vest in the Registrar under section 11 of the Act of 2012. This argument if accepted, would amount to reading in the statute something that the legislature has not provided therein. The power of cancellation provided under section 11 of the Act of 2012 is unambiguously confined to a “trade union”, which definitely does not include “industry-wise trade union”. Seeking guidance from the provisions of the General Clauses Act, 1897, it would be apt to observe that the power to issue an order or notification conferred under a statute includes the power to add to, amend, vary or rescind such instrument. The power to cancel registration of an “industry-wise trade union” thus vests in the Commission and not the Registrar. The power and jurisdiction to consider an application seeking registration of an “industry-wise trade union” thus exclusively vests in the Commission under the Act of 2012 and not the Registrar.*

*8. For the above reasons, the Registrar was not vested with jurisdiction under the Act of 2012 to consider, process or grant registration under the category of “industry-wise trade union” and consequently this petition is allowed and the impugned order, dated 01-04-2019, is hereby set aside. The application filed by the respondents for seeking registration in the*

*category of “industry-wise trade union” shall be treated as pending before the learned Commission. The learned Commission after affording an opportunity of hearing to the parties is expected to decide and dispose-of the application pursuant to powers conferred under section 54(b) of the Act of 2012.”*

7. The petitioner is admittedly an industry-wise trade union, and therefore the ratio of the said judgment is squarely applicable to the matter regarding the cancellation of the petitioner’s registration as an industry-wise trade union.

8. In addition to the above, after the said judgment was passed by this Court, the N.I.R.C., vide notification dated 27.01.2021, amended the National Industrial Relations Commission (Procedure and Functions) Regulations, 2016 with respect to procedure for registration of industry-wise trade unions in the Islamabad Capital Territory and Trans Provincial Establishments. Regulation 10A of the said Regulations provides that the Benches of the Commission shall, in relation to industry-wise trade unions, federations of such trade unions, and cases referred to the Commission, perform such functions and exercise such powers as are performed and exercised by R.T.U. in relation to trade unions, and, for this purpose, any reference in the 2012 Act or in the said Regulations to R.T.U. shall be deemed to be a reference to the appropriate Bench of the Commission to which such functions are assigned.

9. In view of the above, the argument of the learned counsel for the petitioner that only the R.T.U., and not the N.I.R.C., had the jurisdiction to entertain and decide respondent No.4’s application for the cancellation of the petitioner’s registration as an industry-wise trade union is devoid of merit.

10. Learned counsel for respondent No.4 is correct in his contention that the petitioner, in its reply to respondent No.4's application submitted before the N.I.R.C., had not raised an objection to the jurisdiction of the N.I.R.C. to decide the said application.

11. Since the petitioner has already preferred an appeal against the impugned order, further indulgence by this Court in its Constitutional jurisdiction is not warranted. Consequently, the instant writ petition is dismissed. The learned Full Bench, N.I.R.C. shall decide the petitioner's appeal as and when it is constituted and shall not be influenced by any of the observations made herein.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Ahtesham\*