

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.3342/2019
SNGPL Employees Union (CBA)
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.
	02.10.2019	Rai Azhar Iqbal Kharal, Advocate for the petitioner

Through the instant writ petition, the petitioner, SNGPL Employees Union (CBA), impugns the order dated 25.07.2019, passed by the learned Full Bench, National Industrial Relations Commission ("N.I.R.C."), partly allowing the appeal filed by Zubair Khan against the order dated 13.06.2019 passed by the learned Member, N.I.R.C. Vide the said order dated 13.06.2019, the learned Member, N.I.R.C. restrained Sui Northern Gas Pipelines Limited ("S.N.G.P.L.") from disallowing the petitioner from functioning as the Collective Bargaining Agent ("C.B.A."). Vide memorandum dated 03.06.2019, S.N.G.P.L. had decided to withdraw all facilities provided to Shahzada Iqbal Raza as President, C.B.A. until the holding of the internal elections of the petitioner/union.

2. The Registrar Trade Union ("R.T.U.") has appointed an Authorized Officer for holding the internal elections in the petitioner/union. Vide order dated 27.05.2019, the Authorized Officer directed the Management of S.N.G.P.L. to abstain from entertaining the last office bearers of the C.B.A. in order to ensure free, fair and impartial elections. Consequently, the General Manager of S.N.G.P.L., vide memorandum dated 03.06.2019 issued instructions to withdraw all facilities provided to the President, C.B.A. This memorandum was assailed by Shahzada Iqbal

Raza etc. before the learned Single Member, N.I.R.C. who vide interim order dated 13.06.2019, restrained the Management of S.N.G.P.L. from disallowing the petitioner to function as the C.B.A. and suspended the operation of the memorandum dated 03.06.2019.

3. The record shows that the last election of the S.N.G.P.L. Employees Union was held in the year 2017. The change of the office bearers of the said union was registered by R.T.U. on 24.03.2017. Under Section 8(1)(j) of the Industrial Relations Act, 2012 ("I.R.A."), the office bearers were elected for a maximum period of two years. The elected office bearers are treated as usurpers if they continue to hold the office beyond the period of two years. The term of office for which the office bearers of the petitioner/union were elected expired on 23.03.2019. The learned Member, N.I.R.C. had correctly held that the holding of offices by the office bearers of the petitioner/union beyond 23.03.2019 was without lawful authority. The learned Full Bench, N.I.R.C. has also observed that the petitioner/union had concealed material fact by not disclosing that earlier interim relief against the order of the Authorized Officer had been declined.

4. The petitioner/union is challenging the order dated 25.07.2019, passed by the learned Full Bench, N.I.R.C. so that it could continue functioning as the C.B.A. for a period beyond 23.03.2019. This is not permissible under Section 8(1)(j) of the I.R.A.

5. Section 8(1)(j) of the I.R.A. provides that a trade union shall not be entitled to registration under this Act unless its constitution provides for the manner of election of officers by the general

body of the trade union and the term, not exceeding two years, for which an officer may hold office upon his election or re-election. It is not disputed that the said requirement has been incorporated in petitioner/union's constitution. In the case of MCB Staff Union of Pakistan Vs. Senior Member, NIRC Lahore (2001 PLC 131), the trade union had failed to hold elections and was continuing their tenure in violation of the terms of the union's constitution. It was observed by the Hon'ble Lahore High Court that every day that lapses beyond the period of two years shall be deemed to be without lawful authority and usurpation by the union. Law to the said effect was also laid down in the case of Rehmatuddin Vs. Registrar of Trade Unions (2010 PLC 174).

6. In view of the above, I do not find any merit in this petition which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

*Sultan**