

Karnataka High Court

Sri P N Munirathnam vs The State Of Karnataka on 24 April, 2009

Author: S.Abdul Nazeer

IN THE'. HIGH comm' OF KARNA'I'AI<;A AT BANGALGRE', ff".

DATEB THIS THE 24*" DAY OF APRE1: 42009.' M 2 »' %

BEFORE

;rHEH0N*3LI:M1cJUST1c'Es{

H'12ITPETITIONNO.Si180(I--.3u\$8é'1/2909 % "

C/WHCRNCAS12 rszzgsgmgg-3&9'-4.'

mnwoazsowsgzkgfiw "

Between:

Sri RN, *'\$i.%fiinirz;i:'n1a1rii} a

Aged ah-.a;>ut._5:? -- ~

sxo late Periapga "

R12: No.26;'\$. ,9'3C cmss,' .'

Parimaia Nandiaini-, _La3iout,

_ Banggtldre :- 566 V

S/ca {ate

Rfa ?€*:}.1'1,I""A Main,

% é % -.J.c. N3gaf;~M81la1fi1S1mfip11f8m,

" V Vfiazagaloré' ~» 560 096. ,. .. ?etiti0ners.

iz;.L. Patii, Adv.)

And :

The State of Kamataka, V

By its Principal Secrctaxy,'

Energy Department,

Dr.z-knbedkar Road,

Bangalore »- 560 0Qi...__

Kamataka Power

C0fp0f&1i01'llLiIni V

Bangaiaorég W560 001%',

Reptd. I3\$jjits . " .

The Mzajxagiurwzg .. V
B_F3S«C{)\$T\%f K.K*;\$irçti«*: , "-
B,angaI(_>r7'e' _ ~ _ -- '

The 3s}ian3g,in\$Di41V' é9i6r,."-~'L'

MESCOM,,Mangaldre.

: * -. i:éA_i»iar:\$:1A:g:';~1g Director,
" GE\$€{u)M,".j(';uIbarga.

Q A fiiiéfiioyees Union,

R:?...gd.«VNo.659, A Smticm
Ran Circle,

Q " * Bangalore W 560 099,
" By its General Secretary.

Vikas Sam, %

.,'\$'{axrfçri 1 .. V' '

Sri M.Nagaraj,
350 Ian': Mlviunfivenkatappa,
Aged about 50 years, T 3
Waking as .F'~'asst.I?.Xeeutive Engifieer (Eiectricai), '
BESCOM, Cmpomtimm, K.R,Circle, ' .4
Bangaiore -- 560 002. '

(By Sri Shashidar 3. Karamadi, HCG33 for RI" 1."

Sri BC. Prabhakar, Adv. for M,/Vs AfS--.for R2,
Sri Subbarae, Sr. Adv. for _M!'s Su.hba_Ra0 -& Ce'. ,f'fof
Sri B15',Acharya,Sr.A;lv;f9r*~Sri Eiandesh J,-..Ch@:t;1,'Ai>iv.f0r R?)

;;><P.M\$.si[22?«\$:»22x?3;26a9

Between:

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EJa,fl't.*t}-* 0\$0'CçE';B.!\$fA;er:,

;iT%2É'l\$iana\$'ng Director' ,

..._f33ESC€}M, Guibarga.

6 KPTC Emplcryees Union,
Regd. N0.659, A Statian Comepund, V
Anaaéa Rao Circle,

Bangalore ~ 560 009,
Reptd. By its General Secretary *
Sri G. Narayanswanziy.

7 Sri M.Nagaraj,

Sfo late Mlviunivexxkamppa,' V

Aged abeut Si) years, _ U.

Workingas Asst._}'Zx\$:c:ltivcjEngiil':er, '
BESGGM, Coll13%ora'ficinV %'\$¢;:e; R;Clir_cl'e, '' "

Bangalore - \$6(2i}f)2".'-V' _ _ Respondents.

(By Sri Shashiiliar s»'*i<a:ranla:i;; HCGP for R 1"
Sri. BIZ. Pmbhztkar, A;d=.a,-_vft>r_Ivix'\$ Beepaiam A13 for R2,
R3 to RS. . --V _ '
Sri Suhbarao, S3; Esdv. far 3-.fIf:\$ Stbba Race 8: C<3.,, for R6
Sri B.V.zfic]mrya,'E\$'r'VzXdv*f0r li\$ri'S"ande3h J. Ch3uta,,Adv.f0;* RT}

x\$g*ri\$"P;:::i¢::s are med under Articles 225 & 22'; of

». u the C0nst\$itut.ia¢ \$i_r_a.yi3:g'io quagh the swtification dated 17.12.2C*Ci8
Azmexizrf: 'N'. (W;_P\$Nos.1800-.1 80152089) and at Axznexure 'P'
3_{W,--I'.Nos.2276%;22?'8!2G69) respectively, etc.

V» , .: W52 Petitions earning an for Further 'Hearing this
-- . .' » .» ' '---.da\$,g 1:21;: '{:QI_ilT made the foilowingz

,QJf'!_Q._E_.1'i'

Since comma: questions Qf that and law 'are"im>o\$ved."_Mifi: aif'

these writ petitions, they are clubbed heardfiizfzwc "di:\$p0\$¢:<£

efby this camxnen orcier.

2. In these writs, the validity of the order dated 22.11.2008 milzass : '[j?i?;%}%:f.z~:\$%\$'.%:%:\$x5 ta 22"?8f2\$ti.'>9) whereby the "appoi31leé as me of the: DirecMrs 2:321'---\$I1:e Transxzzissien C-{}1'p{?I'&t\$0.!. '1 Supgly C-eangany Linaited,

Ma:1\$&i(\$V:*.s.;~;T. C0n1pan3s Limiteé and Guibarga

Ei€. 'C'f1'iCi' {j=' Limited (far short 'the companies').
4' The g:>eii\$ione1°s are the niembers Gfthra Kamataka Pauer

'[_"Fr\$z1.~fi_it;iA\$éii\$2A C-orpcration Eimployees Unixzm, Bangaéore' 'i'¥:le 7''

' -fmspéizééfit is working as an Assissiaxlt Executive Engineer ia

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V

Bangaiore Electricity Supply Ccmpatxy Limited, K.R,Circie, Bangalore. He had filed a civil suit in O.S.No.523Gf2008 before the Additional City Civi} Judge, Bangalcre, for injuncion defendant N053, 4 and 6 thérein viz, :{-Vi')"' 'U¥}i\$)t'_1! V Committee represenied by its

Commissioner, Baagaaife, (ii) Sri Ché'nfi\$Ei\$é;ad2221.ii':a_

General Secretary of KPTCL 33?-xn;>loyx:~::s" _a.n::i €'iii}"AAL{3'sii-33

Committee Centre of KPTCL E1n'1\$}JoyeésL~ by its

Secretary, Exzlaifsanizfiéci Sa;\$9\$ill_ila.ii*:21:i"lai:i::g any action that would diserxtiie him fz'c%_V Vzaxeréisingg " sights as a 1:1::m¥:3er 0f the \$<Za\$:1aia}<;i'\$#¥Qx\$éqr 'Fra;lsfiiss.i_Q;n ffstsrporaiez: Erz1pleyees ifnion {for

shéfatt V -{he e-lestian to be held for the post -sf

' V' .Fresiéé:n?.Vé:1fi af\$iff:'j_b}5arsrs «:..-f the (femrai Exeeuiive Cozmxlittee of

_ :;¥.;é V Ifnioii :4t.1{E'g_for cenain ether yeliefs. In the said suit, me

an: agpiicaion under Grder "3 R339 1.i~A 3f the

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' : . aieswed the said avpiicatism by its {rider dated 218.2908 and

rejeefled the piaini Fee\$ing aggriewsé figs; thfi said fifdfif, the 7''

5. Sri Mohammad Nasiruddin? lear11\$d"'Co11;}\$e"l:'

for the petitioners in W.P.N'e.2276-2278f2{)f}\$':'spfiéífis 7"' " i A

respondezit was appoixtted as the if u.t.hE:--

companies on the basis of his agvgintnz-zrfi j>:*<}\$'king I'res\$<'l;mt
0f the Union. It is argued working
Presideat of the U:3:i-:31: In this
connection, he h2fs V various Rifles and
Regulations (jt"th\$-.;Vr;:i\$ i" is fl\$éii"\$i\$;cvillg regard 19 Rims
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elect aznongsfi IE'leV'rii:'s.s3I}?es itigze bearers such as 0) one Senior
, '\$'?ii:w:*. gem: 'Vice President (except Baxlgalere

one General Secretary, (iv) one Joint

Sea':ret2.I~'f'3'._' (_<'v) Eissistani Secretaries (vi) cone Organising

for 0 & M Circie, (vii) (me 'Fre:a.sure:r (viii) {me

':._'_v"4'5;ss'3;\$tatlt:Treasurer, In addition to the eiected memhers, not more

. five members can be ctyopied by C-entra}, Exexcuiive

in case it feels necessary t0 have representatitm from

w any establishment cf the Corporation" Interim} vacancies in {he

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Central Exmutive Committee shall also be filled up by A. V

The cc-opted members may also hold the pests of l"

specified abeve till the next elections unless ' "

He submits that the 7"' respondent is neither a of Lkaioxzll A ' ~ V'

nor has he been cc:-opted as such. i;\$"n9 peSt.Qf"a:'ixe\$ i; i11\$. \$
President as per the Rules and I-:;\$gr,::;ia{i_a\$ifis _€\$r\$'~llj;efiI;\$;:i«:3n. Tliéréibra,
the appointment ef the '23' respmjxglént xva\$fi'fi\$;g__'E?resident. is

totally withgui 'E1 " {hat having reegard

to Rule 11(<i\$I{ _i:~;'.j, lhé C0n1mittee1las;€he powers

to flame sl}?3usidl1:ll3'3;i.:a.:<ll A\$):ll'fi"~:l€iil&E'S "lb: p3"i)\$)f':I' adsnizzisir
1-'v"i_I'¥.lfi"'t"(-.VéH'sa\$;%J"3:'aI1r(i the subsidiary Rules 39 fianned
flamed under the Rules and Regulatimm of

l Mtl1é Rules can 02113;' be flamed fit}? praper

jv»-v'3,'(_'?'{1}7li}}iS\$'3.lZ'if):i'tE"lA'1f>fV the Union fmm time ta time. \$23 the guis
7*" respondent cannot be appeinted as the wezking

K of the Unieng If the appoinzment ofihe 7%' respondent 3;»;
working President itself f5; c0n11*ary' 1% the Rules and

Regulations of the Urxienl quesrtion 0f his appeiaiment as {fie

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Electricity Board. The ";"*respollde:nt has not taken the nlelnberslli;:}{.

of the said Assmiation. Therefore, the appointment of th\$;"'?"'3?"

respondent as the Director ofthe Companies is iliegai and. . _

authority of law.

6.. Sri R1,. Patil, learned "V.appeai*i:}V_g"'Af€Sr

petitioners in W'.P.Nos.1800~l80.0}"24fj)09 sn%1\$ i::i:\$%:1{a;iz~;;le man {hr

incsusion of Article 30(l)(a) in the fvfgrfibrfitiduaiv"'<\$tj'V'.J\$s3ociation

anci Articles Qxngeze 74.5 in me

Metnerandum (Sf of Association of f116

Bangalere ._:v\$'a; }f3\$ \$?A"'-iféfilpafiy Limited, Mangalare

"C; }ln;>iifl1f\$?" "i;i;nited and Guibarga Electricity

Su\$31'_;i:y?. to effectuate {he abject wlaind Ariieie

of India. It states that the State shall take
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 ":é\$tahi_i\$h:\$1le1lts or csfher organisations engaged in any iifiustrjg. The
 behind the saié Afticie is far paxiicipafieix Gfthe wccrrkersyin
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the xnanagement and not for the paréicigaation ofthe Qficer cf
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 engaged in any mdtxstry. The 7d' resp<)r:den»tmVibs; an bdf'. * _
 KPTCL. He is also a (iisciplinary a'uthmit3Hin '«
 cannot effectively represent the wt:-rI<:i;l\$:¥n~ jg; ihé:~nlazlaga?g11'e:\$tv«0fh
 undertakings. The Union has re\$comme::d\$Civ.the_»_Vnanié '0fvthe 3'}'fi'
 respondent ibr appointment / i')i.re\$:{::'i\$)1'u.A aferesaid
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 7» 02: _\$'h:3 ether hand, Sri. Subba Rae, Ieanieé Senior
 {I<\$tii\$:sz':i_» figarpearing fixer file Unian has Sifilighi f9 jzzsféiiaa the
 . nolif'iea¥,ie:n* it is argued that timuglx the suit flied by the
 respondent in ().S.P<éo.523f}f2f)()8 restrairxing the defendafis
 " fion interfering with the right sbfthe 7"' respondent as a. Member sf

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the Lixiion was rejecied, in the appeal in RFA No.982:"2€)(3S, ihée-
Union has stated that the 7"" responderzt has centinlted t.s.)_§;>'e-- A'

member of the Ijniala. Therefore, question of his cmoptinfgj .

Member does net arise as he c-ontinned 1:0 be a».;:;é:::1'{'n?;:' f

Union. The Union has appointed 73' lfesp_0nciefi_ as; its ',vq:\$rI;i\$1 g

President for proper adminisération ef the yvhicii
in accordance with the power' §;{ilrferr7§:d Rules and

Regulations of :35'théihégvetitioxers had filed
a suit in O.S.N§3;253<%¥f 'EJ§\$2i.0n for 3. declaratien that
aniy €*fI1\$!}0}?8€SF1'.\$50f'1{ffEfffVVV'0i; whes are waking in
¥a.ff_:'\$§sus eaiegéfles 23lenfiél1sé il\$;A}i¥1fiX¥lft3 I to semeznem daiexi
1:11; caterierieg of Assistam Ezzgizzatar -- Nan-

Gradiiaté Assistants, who amwer the éefiziiaiotl

"'1}f»,€I'IC1i}1Cl"js?'.':_c"%V'11ild'?«.-3"" Emile 3(i§i) of Rules and Reguiations of

.3313 for {fiber reiiefg. The Cour: beiw has refuses: {<3
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V.'*.v."':{§:€aiAIed"" Subgequenfly, the said su-it was disrzxisseé for

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0.s.2~:o.79\$2;20o3 agairist the Union atsmhg 7***"§es;;;§§;.3ém"%+.V

herein and certain other persorns seeking sinli!'ax?éiiéfs. I_§1:is;>V1: 7 A

ant} others have flied their written cppésiglg .ti_lé»3aAici 3:ziL

The triai Ceufl did not grant may i21telfir11--.i;1 112% in
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was appointed as the' _f1\$ii1fçctof;f<5f' By
suppressing Ihesag. filed 111336
writ petitiensuii 3G(l){a} 31" the
M-ern0rancill¥i3a_ of :fig'__fi<§;Ies ef Associatiml of the

KFTCL and Ad\$cs.\$%M?vé-A .il{il:é'\$§ie:n0rmlum cf" Association and
fav.t't:\$cIes ::';\$ssqf;ciafii3:1«Qff«.1}le Bangalore Electricity Supply
C's3nip\$;l 1}*--.,l\ziangaiore Eiecfréciiy Supply Cempzmy
»,__»LirIilit<.éd.fi;."lfi Electricity Supply Cetnpaszy Limited, it is
.jf:he_abseilul"m tdéiscfeféiozz of the State Gouvrenment to appaint the
I:)if%.=;c{of?"€>€ the Company. Even if ihe ?"" respondent is not a
Pregiéent ef "the Uxien, the Gcvemmeni mi! rxxay appaént
him} as the firector. I~iav\$ng regard \$0 the ifisifi and a3i2w":-u\$;;sta\$c=;%g
efflme case? 'there are :10 maiafidc-3 in exercise 02%" discretion by iiiéf:

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Union and the 7"" respondent for declaration that
esnpioyeesfworkanan ofthe Union in various categories n1_e-;ritio:loé:i- -1~
in Axmexure I to oettlenlent dated 25.9.2{)9\$Moxoludi;:g'Caiégofi;*:;s * _ '4
of Assistant Engineer -- Notbgraduate 5: 'A
Assistants, who answer the tiefllitio2i\$ o::f7 .Vor:lplo3-we z.moxé_r A-';3o;<¥io;1
3(iii) of the Rules and Reguigtions to
become aoé continue as fnelIiExax9s--.ofot1\$},é :.Ufi\$€\$f.!. 3fld for certain
other reiiefsg' 'didnoi seciirs:~Vaiiy interim order in the
said suit. 'I'heroafié1',...\$'éo3oo;ldént was appointed as the
Director of the éifo:'f--:'saoiVd'V._co:3}ps--a.*iies. Fe-titione.rs; have suppressed
Sfiifixg 5"€%le»_A--oforéfsaioV"sisit;-----«}~faving flied the aforesaid suit, they
céurooi oi2iilLfé:lt:&:_Vf>a\$**a;i_}'ei---.proceedings for the same reiief by way of
writ. the appoiutment of '7fi" respondent as the
_, ?fs:-oiiierlt of the Union was iegal or not is a disputed

fact, which has 'io ho dostified ix: me suit. The Siam
ifroyemmmfi at its discretion has appointed the 'fa' respondent as the
" Director of the zzompanies. It is not necessary that a woricnlao alone
is required to be appointed as the }}ii'"e€:'{0:". An eznpioyee is also 3
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worker of the cempnay, who may be appeirrteé 1:3 tilç..\$ffi\$.ç V
question. The Rules and Re-guiatioras of the[L¥n\$:<):é};s
only for the worlsxmn but 3330 far the Qther v'et1}'p2<3yees"'Vi3;f7 3
company. In the larger interest ofthe of ihe
the Union has thought it fit to
Director, who can efiéctiveiy
Merely because the '3,\$as&%-d a speaking
order whiie Director of the
Conxpazfies, 'héiéín catmot be quashéd.

9. I have' {f33 arguments mafia by the
lgamed C\$z\$§:13sei.at perused the materials piaezeszi on
record. ' = .. _

of the petitiruizers in W._P.Nc:s.22?6-«

" ?'j iszthzht the 7"' rezssponéént is not the member cf {he {}Ili€I}fl
316:. has' he_fc9~0pted as such. F-urther, there is no provisian for
%i;3p:0_ini.\$':1e:1t af 3 member as the w0ris:ing Presiient. E1; is not
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7-3.;
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disputad that the petitioners have filed a suit in O.S.No,7982;'20Q8.. _:

against the Union, the 7"" respondent and others seeking ffc=>25_ iiii>2'» .

fesliowing reiiiefs:

" : _ _ , - . . _

WHEREFORE the plamtifi"s'%%m}§s: re-sp§éctfi;l13§':

prays that this Hmfbie Cotzfl may bé"n: ga,nt§1 '

judgment and decree in the

and circumstances the ill.flh_r'g of

justice, eqafiy A

a) féizgilcryeefifsvorficxneil of the

9"" defémj_ai';tA K3rneil;;iia:_4}:3}r_e%étriscity Beard who are

W<>1fls:i:3g \$'fi.1"1'{}).T&IS ".€. 'i{?':i'2.f.gOI'i:'2-Si mentieaned in

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(excluding the caiegories 9f

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'Fi'3'_I%\$'({i}&;i who answer the definition of

_ "Er'i:r;3}<;iy§3-e'V' under Section 3('iif) of the Ruiers and

V "§?;<:.gf.2ié,iions ef the first defendant ifiniim pmduced

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For.

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Union;

DECLARE that Categories of Qfiifiérs tiaentietnééii " ° V

in paragraph 9 ofthe plain': Anfiexrgre

hereto like defendantg __2 to 8 ~are~.,(_VZ}fi'lcérs.c3tf

the Qfi' defendant Cormrxéifqn Qtre jfmt "-::*~;1'"n.~*.r.,f§3 eyeef or

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. *_ Ijaian tctzmfine its membership only
V t<'m:\$lgIf>\$,zées;!la=prkmen as defined under Rate 3(iii)

H " A éftihét Vand Reguiations of the Ifirliasn read

tssizza smog; 2(3) Qfthe I.D,Aet,, 1947;
pennanent injunctien restraining the

H 'Seildallts 2 tan: 8 from fimctimxing as office bearerrrs

anti executive comnxitteze members of the 1"

T deffi2°}{i3IIi*-{ }31i()\$} since they are not worémiaaz

within the definition at' 2(3) of Trade Unions Act,

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and the Rules and Reguiations ofthe; " "

urzion.

For a permanent f1ljuncti{m_'_ restfaifirag aha-i 3 1
defendants 3 and 5 from opcmfing the

account standing in thername 9f--«t\$ie%'~15'*»dçfendiaa3:i---.

Union and they may alga re:%ira\$;lgé,d4
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meaning qf_}i\$3eV_'Fr3:\$'._ç Unions Act

and the__ S' defendant
Union: as the interest of the
kimnbézs :0ft1V1e-- Unien.

For manéssafy aiizmigr;- .v; '<ii:\$czing the 9"" defendant
CQ:_\$\$dx\$a\$io11 ndt't9 ;9ecog;lize the defendants 2 10 8

., Eéagfers of the 1" ééfandant Union since
"1};çy' ih_é_',workmen within the meaning of
"Se'r':'iion 2(\$}'j0f:'the Trade Unions Act and the Rifles

Regulaiifins of the 1" defendant 'Union as they

A will nor Safeguard the interest of the members of
V' ' * the ééfandant

For a manéaiory injunction diracl.ing the 93'

" "defendant Corpcaiaion not to recognise the 2""

defendant as the Executive President of the 3"
defemiazzi Union for the reason then}: he has been

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declared as not a workmen am he has not contested

and duly elected in the eiections heid 19 the
defendant Union as 3 Centrai Executive Cexntnitiéqi' . ' '

Members and in View of the Judg;lar1t»agd '.

passed in 0S.No.5230f2008 on the :_fEi::::'0f,t1z<\$

Additional City Civii Judge 25;8'.2{)@8.

h) Far a mandatory direction difecfixag the S

Labour Commissioner,-to issue---dir.f:fttiész;s to if"
defendant Union :6. xxsecéi i_ 'Q~13iFe\$;5:Iil<i;3 the

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are: net definition ()1?

seems 2(5) mg T:~ac:\$L:n\$ons Act and the Rules

and Régulfitiofié .<__:dV:"il;vlé defendant Union as '(hey
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' .44€;i2jet;i\$;.1s'féi.ilcses «sf this cage including costs 91' {hege-
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The petitioners in the suit have centemieé that the:

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making "false statement, the parties 10 th«_2...dispute_--'

necessarily required to disclose in their pleadi:3gs;'_'tl'i~a\$ déétails fit' :3::..lE:':" "

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Cé'r:.*'t, appr0;3;;iate""€ér this Court ta gi) in:-::s {he said

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the apjéoilxltrixexitl l':?"h respondeni as the Workiag Iflresidem of

the V{\$rli{3n.llis..ei\$1;tfalr;y t0 the Rules, that by itself will not preclude

H Govérrlzmezzi; from appointing him as the Direcior eftize

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Companies and not necessarily a workman for, Aapoint; n"eilifliw. " _

Director of the Companies for the following reasons:

:2. Article 434 of the C0::{\s%itutio:i'---- gnsmed 2;:2*" *d M

Amendment which has come into force' W..gé\$1" 3.i'i9?.7'\$3Ea;€z2s

the State shall take steps by suitai::§i%a.legi'f:3a1§i§\$>\$1 --any ether ifiezajg,
to secure participation V sf wQr1;é;'sVV V fffhe"~~.§1r)é.I:1a,<;3,réznle1lt of

"undertakings, er.st,ab\$és\$_illié:;t:\$'or éthefaf €:i:ga'i::i\$.§aii{:n\$..§\$t1ga,ged in a

In Duty 2Cg)il:~:t :itutif>nai Law of Ifidia, Sevezzth

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any violent transition from capitalism to socialism. . . 9.

but believes in a phased transition.

Article 435%. is the first tii>*. *f3;td;é':

socialism in India, age; l2a vi1lqé..li:§se§iedVV méat

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Act, 1976. The scheme of...eel&r::w.Altiqlq' "tltat
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The right ta: participation in the
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'4 It £3 clear from the aferesajé Artticle that the State has to take

S steps by suitable legslaticn or in any other way to secure

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pazticipaticm of workers in the nzmagement of the undertaI<;ing_s..VV_:

The Article does not state the panicipation of workmen along ihe *'

marnagement of the undertakings. The term J'?wQrker'f' 'do£:s::: " "

mseniially mean a workman as defined in th\$~_Ind;jstfiaf" ' "

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13, The Executive Committee ofthe Unkm. has

resolved to recommend the name of the ';/"/9 :

appointed as the Director of the a.1'.?):)r«:-.?S:«3;l':éi~...c\$01t:lpAé3;;13-f. \$i_višv.

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this Court has,Vvi3eld.AiA\$1&{ which the right to
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14. When the Union has unanh1lo1ls}y""decidea i

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dateé '?;11;2G68) rwomnzendizag the appoimrnmz 9?

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Companies. The said communication is as mldar. T ~

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KPTC Employees L?ni0fi,'=- (Sf and

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has an influentiisd leadership. This Union has the pride

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years in our country with dignity and discipline 3.353 U had a cordial relationship with the
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Tzéyéargy ee□ga: Body Meeting of the KPTCL l ;gmp:¢\$€g¢sh¢;a in Bmzgal-are on ',26.8.20{8
and l' P.G.Am:minabhavi has been elected as the meeting of the Carafrai Executiw .. Qenuii-iltlee
menzlaerg newly elected held utzcie-1* the x_ *.?r\$side:1isl3i;3 ef the Sri F.GA1tm1i11abhav\$, newly
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as the working President. In this direction in the C€\$.{!°i1\$ Exzxu□ve Committee Meetizag helé an
6.11.2308, an the policy of pa□cipa□on of Employees in the ;_tdmi1_1is1r;itié:1,'* 1:" . ' the nxwting
has unanimously pennitted□ 4' ' Senior member of this '{}nion and presémly " working President
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19. Sri gm. Patii, ieamed Counsel» 'a1:\$~e=gz1~i1\$4'g '"1"4\$,§V':;,1;f?.1V€' petitioners Submits that the State C\$<}\?61'I}}"!i£?I\$»3;' }1£i::Y;_ATI'i(\$i iigg 7 mind while appc:-inting the 7%' responde□ The DAife-a:___toi' .9f £1:xé companies. By appointing the '?*V}'-r:§'spong1«e:1:i..é,f; fi}ire§ibr:~ is admittedly got a workman, the 43-A has been defeated. In thig Counsel has relied on me if 1

(s) 3-;i\$OWER (:o. L112). & OTHERS 1&1; j.~"" AIR 1958 SC ass;

(ii) A;H1i.,; 311Am:*;;1::4 SGSHITH mxmcmni Ts□fwr;;1?: mafow €)14*1*,*u)L4 « AIR 1 931 SC 293; "{\$.§_i)'A\$%i4}f';I€?§Yi%\$L...T1ZY3'ILE WORKERS'S UzVIO:V'e£c. vs. L V 'RRR}i□@§4KR£Sf;§\$€'§¢N'& OTHERS --AIR 1933 SC ':5; ' A (iv) 2:11;; I\$V.?)L«i BANK OFFICERS' CONFEQEE4 TION 4% Q i2;VIO.N o13' INDIA & OTHERS' W AIR 1989 SC 2345; ff %T (v) Kvamzz S'HRILEKHA VIDYARTIII& OTHERS vs. " '\$f24TE o1%' 1:312 & o'1"§:fER.S'- (1991; 1 Sec 212; and

(vi) AIR INDIA STATUTORY CoRR§1-mrigy g_m%[%:%.«:s:%%j CKNWED LABOUR UNYQN & OTIERS.

20. In K. S11REER4IHzza4_o's 1953 aS1cYx553\$),, the Apex Court has érawn a M 'employees' and The expression 'e111pYeyc=';é ' all persons, male: or fem:aaié;"T" " Ci□ce, Maixzs Departnlent, SV':£V£3zfe;:'\$, '_ f□f¢eixfing Station cf the Company, tsLt"" 'Wc;>ri<;n1e11' denetes 3 Sf□ii□ 3:112}? Evéaiegories of employees as have been éxgfzd who magi have a ticket. It is held that '-s.;3.2::h a " dearly □atelligible in an industriai _jjj..€_?_5a,;!;§iié3»h1nen"£, for security' and Othei' reasans a system of 4: is necmsary far these who w<:>ri<: in the Pawer V. Maths Department err other glaces where essential is installed whiie others, such as the cieriea! Staff. may Werk in an office buikijng Where secu□ly demands are either non» n._ existent or much less insistent. This distinction means thai. ' 'workznet1' are 'employees', but 311 'employees_', are not 'f\§i?dfk1nén' 4' fer the purpose of standing orders. This decisim u A the cmltentions of the petitioners. In th£:'»T11féf.;g2;1It cj9A.S;*T._ne~ '?'"" respondent is an O□cer. He .m_ay not Hut h¢AAisH;§I1 employeefworker in the establisiii□iyti 'it, is say that worrkrs include not only Vbi3t'\$Isn_'Gt\$tses e 1 i : p § ;) f « § e e s . T h e r e i s n o p r o h i b i { v i { § 1 i ' V T V é i i h ; ; } : v i i 1 ' ;i'4tJY1a?_':.«'*.IVf:'fi£.'It:£%':26?VAsociation of the catnpaxiies or i□□értécié Csiynstimiiien far appoiijxtme-2:1 of a worker 3&1 the r*'?4'I'5'i*£'i\$V%11ta5é;i\ré"£>f workznen as the Qirecior of €115 2 _ 2}: ~12: JBHARATI IKZ-4 SGSHIE" KARAMCHARI "--'§ casex SC' 293), the Apex Couzt has held that "v: ;};ough the'.44i§i§e"é§ivéig□hcpies are not enferize-able by Ceurts, ii i *§i§§eé'...iaoAt 'ti:e.anV'i11at directive principles are less important than riglts o1' that they are net binding an ihe va.ri<>us Vt V . ___\$z"g;§:I:1\$§f the Staie. It hag been further held that Article 3'? Of□k□;

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Constitution emphatically states that directive % nevertheless fmdamemaI in the goverrxance the"
'c;-a.\$31':itr}*i'a31:<_.i: 'itu 'V 31131! be the duty of the State to apply these
pV\$'1'a.*-.1,;:-i'p.Y:2.*.s: i12T.\$1é;zi'\$i:1g° V laws. The éirective principles should Ceurfs'
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WORKERS' :m().i\rs case :\$'C 75)? the Apex Court has reiterated what has been smrin AKHILA
31L41a4T13:4 305312' K;4.RA;}ICIE4RI s case (slxgra). The Apex (fear: has heid that the vmriiers

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constitution of the BQ2g□i"e--f' _* ~. ' ' Directors so as to ixwiude represe□atives of the
t?3'I1\$§l_Cfy":3t3\$§:"~?1I1!\$.: « other speci□ed categories. The represe11tative\$§_ of:ihs.=.jS.7e
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22. In KL-"MARI SHRILE '1{A. VImig1Rr;;*1j¢eJ}oTH.a:Rs*=s case {(1991) 1' sec 212} ;"the Aggéi□
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to enable propeg :é:»zgr¢i'se.\$f"\$?1e;" coupled with the {int}: 10 ghun a.rbit1'a2*i_r:es5: in
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-. §2sr.._;\$:%ivate ga".§;tV1,_ 1~whim er caprice of 323}? i:2div£éz,2a£. All persons '1.'"e;it:r\$_'stçd' i:>s*11:i1 any such power have is bear in mind its ziaeeessargs E brought by 42*" Constitsstian (Amen□ment) 9 1 976_.IJ§5s§n." _ the State to secure by suitable legisiation ov□n ;i.rr3: :V()□:'G3_" wziy, Tr ' pa□icipation of Workers in the r11.;magen1em'v. o? establëshmems or other organi\$ation engégszd '§_I_l To make these rights meaning □xi £6.w\$%ori{1ne1%§':g1i£i'--i§1a:éYj;éngfi;} gighi to life a re-a.iity to werkmen, shifg.o;)?'juY;1ici3.1,e;fié:itai§:x" iéem private law principles :o p:_zb.Yic izxtérgire□atiqxx fusing the interegt ofthe_i; }dividii:1i'.:g;;tfe.pf£r:1\$Y1□ paxamaunt interest of the commu□§ty.~. TheV}Lv§§is:iaE_□;:étioi:'oi' a Court, thereforei. in interpreting the '€54<_)I:~5*tit1it:'-Qfi épmvisions eafthe Act. requéses to bu□d u;.;§c3nti11uitjg» elf '\${}Cio---E:Coz}o23}iC erupawerment to the poor {Q \$i1s*uai :i oppe□unity and status an-:i the £39.; should ceii'.?té1:2'£;1j«'V "ihje~._fieeds and espiraiicm of {he S{}Ci€'1_\'/ in ""V'estab3iéh--§;_V1g s<>c%a.1 erder. Th6:-refore, the com:-epés agigra□ed if} the statuie require inierpremiicm frem thai without doing violence is the ianguagas-. Sash an wouié eiezagaie the spirit ami p'.§1§)OSE' csf the "V ' ~__ Céaisiimiiaa ané □ai□é the afrsresaié rights :9 the worr}<_me2'2 3, reaiiijgs 3}} lest estabiisinnent ofan egalitarian social §rder;%:m:1dTtbei'g:s:xj4:x::;..gA5 and Constitutionai goai defeated.

In the present case," .l.§gIe1n;>ras;V-xéli;:2x""*»:m;i_° and Articies sf Assceciation sf Articles 30(1)a{a) and 74-A empo\§?cz§fjg:~ gxonxinate the Directors _t'h_e': appointment of the 73' respandezfit, a ihe Uxxiorn is 91113: to ful□ the censtitiiprsai gegi.' 7 .. . j " A ati□iiivagly angle, the impugaeci order daes net i:a;Ii«.?" _€'r3f '%nf£e:iL'r'a.nça. There is me merit in these writ petitiotxs. are dismissed. This order should net be : as expressing any opinion an the va□dity cf Vagaspo□txnent of 7"" respondent as the workmg ?resiéen't :33?' the The said ques□an has is be kcdied in the suit O.S.Ne.7982/\$309 □ed by the petitioners hereiifiaéiaiath 53 bef-are the Civii Court. No costs.

BMM:"2;442009