

NIRANJAN'S AUTOPORT LIMITED

v.

NATIONAL UNION OF FACTORY AND COMMERCIAL WORKERS
JOVECI GAVOKA, JAMES RAMAN

[SUPREME COURT, 1979 (Mishra, J.), 30 July]

Civil Jurisdiction

*Trades Unions—Injunctions against**G. P. Lala* for the Applicant
V. Parmanandam for the Respondents.

Application for interim injunction against a Trade Union and two named Trade Union officials. The Trade Unions Ordinance Part IV provided that courts did not entertain any action against a Trade Union for acts (which otherwise might be actionable) done in furtherance of a "trade dispute" within the meaning of Trade Disputes Act 1973.

It not being possible to anticipate what evidence would be forthcoming when the case would be tried, those facts prima facie established by the evidence in filed documents must be accepted. These supported that the matter was within the definition of a "trade dispute" and the respondents' action in furtherance thereof.

By refusing recognition of the respondent under the Trade Unions (Recognition) Act 1976 an employer could not deprive a Trade Union of the protection accorded to it by Part IV.

Held: Injunction refused.

Semble—a court could grant an injunction against a Trade Union if the actions by the Trade Union were in pursuant of other than trade disputes—e.g. inter-union rivalry.

Cases referred to:

J. T. Stratford & Sons Ltd. v. Lindley & Anor (1964) 3 All E.R. 102.

Beetham v. Trinidad Cement Ltd. (1960) 1 All E.R. 274.

MISHRA J.:

Decision

This is an application for an interim injunction against a trade union and two named trade union officials.

By enacting the provisions of Part IV of the Trade Unions Ordinance (Cap. 80) Parliament has enjoined that Courts do not entertain any action against a trade union if, in contemplation or furtherance of a trade dispute, it does certain acts which apart from its

A provisions, might be actionable. The acts complained of by the applicant will allow this Court to entertain its application only if it appears that they are not being done in contemplation or furtherance of a trade dispute within the meaning given to the expression "trade dispute" in the Trade Disputes Act, 1973.

B It is not possible to say what evidence will be forthcoming when the case is finally tried. For the purposes of this application this Court must accept the facts established "prima facie" by the evidence contained in the documents filled by the parties.

C They show that on 19th July 1979 a trade dispute was reported to the Permanent Secretary in the Ministry of Labour under section 3 of the Trade Disputes Act. It also shows that prima facie the dispute is "connected with employment or non-employment" of the members of the respondent union. This, if accepted, would place the matter within the definition of a "trade dispute" under section 2 of the Trade Disputes Act. What action the Permanent Secretary has taken is not before the Court, but there is nothing to indicate that he has treated the matter under section 4(1) (b) as not being a trade dispute under that Act.

I hold that the respondent's action, on the evidence before me, is one in furtherance of a trade dispute.

D It is true that in certain cases a Court may grant an injunction against a trade union as was done in *J. T. Stratford & Son Ltd. v. Lindley & Anor.* (1964; 3 All E.R. 102). There, however, the House of Lords, on the documents before it, had come to the view that the trade union had acted, not in furtherance of a trade dispute, but out of inter-union rivalry. The instant case does not fall into that category.

E The applicant also contends that the respondent trade union has not been recognised by it under the Trade Unions (Recognition) Act 1976, and the union, therefore, has no standing with the applicant as a negotiating body and cannot take any action in support of the applicant's employees. Such recognition, whether voluntary or compulsory, will no doubt confer upon the union a special status and certain accompanying privileges but there is nothing in the Act to suggest that, by refusing recognition, an employer can deprive a trade union of the protection accorded to it under Part IV of the Trade Unions Ordinance (see *Beethan v. Trinidad Cement Ltd.* (1960) 1 All E.R. 274).

F As for the financial injury likely to result to the applicant, it must be a rare case indeed where such industrial action does not cause financial injury to an employer; it often also causes grave injury to the employees as well as to the country's economy. That in itself, however, is not sufficient to warrant the issue of an interim injunction by this Court where such action is taken in contemplation or furtherance of a trade dispute.

G The respondent union has invoked the provisions of the Trade Disputes Act and it is not yet clear from the documents before me what steps have been taken under that Act to resolve the issues in dispute.

H So far as this Court is concerned, the evidence before it does establish, prima facie, that a trade dispute is in existence between the parties and the applicant is, therefore, not entitled to the relief he seeks.

The application is dismissed with costs.

Application dismissed.