

EMPLOYMENT RELATIONS TRIBUNAL

ORDER

ERT/ RN 120/24

Before

Indiren Sivaramen	Acting President
Bhawantee Ramdoss	Member
Christelle Perrin D'Avrincourt	Member
Ghianeswar Gokhool	Member

In the matter of:-

Registrar of Associations (Applicant)

And

Ministry of Agriculture Professionals' Union (Respondent)

This is an application made by the Applicant under section 7(3) of the Employment Relations Act, as amended (the "Act"), for an order directing the cancellation of the registration of the Respondent union. The Applicant was assisted by Counsel whereas the Respondent was represented by its Secretary, Ms Indranee Buldawoo. The latter informed the Tribunal that the application for the cancellation of the registration of the trade union was resisted. The latter was not assisted by Counsel. The Tribunal proceeded to hear the matter.

The representative of the Applicant deposed before the Tribunal and she produced copies of (1) the certificate of registration of the Respondent (Doc A), a notice dated 29 July 2024 issued under section 7(1)(d) of the Act (Doc B), annual returns filed on or about 6 November 2024 on behalf of the Respondent, that is, only after the present application had been lodged, for the accounting periods ending 31 December 2022 (Doc C) and 31 December 2023 (Doc D) and the Rules of the Respondent (Doc E).

The representative of the Applicant stated that no Annual General Meetings had been held for the annual returns to be approved by the members of the Respondent. She added that no copies of newspapers had been attached to the annual returns to show that Annual General Meetings had been held. She also stated that the List of the Managing Committee was not in accordance with the Rules of the Respondent. Finally, she stated that the membership fees shown on the annual returns filed did not reflect the number of members of the Respondent for the years 2022 and 2023 as submitted by the Respondent. The representative of applicant prayed for the cancellation of the registration of the Respondent.

The representative of the Respondent stated that she had no questions for the officer representing the Applicant. She however deponed before the Tribunal and she stated that the Respondent has as members, workers who have already retired. She stated that in 2022, two members left the Respondent since one member had retired whilst another member did not want to stay as a member. She added that there was nobody else to replace them. She added that they tried to convince other members but the latter were not interested. She however suggested that as from this year in 2025 the Respondent has had new members so that the union has thirty-three members.

The Tribunal has examined all the evidence on record. Section 24 of the Act provides as follows:

24. Statements to annual general assembly

- (1) *The treasurer of a trade union shall prepare, in the approved manner, statements of all receipts and payments of the trade union in respect of every accounting period and of the assets and liabilities of the trade union including any special fund existing as at each accounting date.*
- (2) *For the purpose of subsection (1), the accounting period shall be a period of 12 months ending on 31 December in any year, unless otherwise specified in the rules of the trade union.*
- (3) *The statements prepared under subsection (1) shall be certified by the auditor of the trade union.*
- (4) *The certified statements under subsection (3) shall be submitted for approval at the annual general assembly.*
- (5) *On the application of a member of the trade union, the treasurer shall deliver to him, free of charge, a copy of the certified statements prepared under subsection (1).*

- (6) *Every trade union shall, for a period of 12 months beginning not later than one week before the annual general meeting cause a copy of the certified statements referred to at subsection (3) to be prominently exhibited in the registered office of the trade union and in all of its branches.*

Section 18 of the Act provides as follows:

18. Meetings of trade unions

- (1) *Every trade union shall hold an annual general assembly not later than 3 months after its accounting date.*
- (2) *The notice convening an annual general assembly shall be published, not later than 21 days before the date of the assembly, in 2 daily newspapers, and shall specify –*
- (a) that the assembly is convened as an annual general assembly; and*
- (b) the matters to be considered at the assembly.*
- (3) *Every trade union shall, at its annual general assembly, consider –*
- (a) the statement of accounts of the trade union for the preceding accounting period;*
- (b) the election of officers in accordance with its rules; and*
- (c) the appointment of auditors in accordance with its rules.*

In the present case, there is unchallenged evidence that there was no Annual General Meeting conducted for the periods ending December 2022 and December 2023. No evidence has been submitted to show that the said annual returns submitted on 6 November 2024 had been submitted for approval and indeed approved at the Annual General Assembly of the Respondent. Also, the list of members of the Executive Committee was not in accordance with the Rules of the Respondent (more particularly Rule 7 of the Rules of the Respondent, be it in terms of the number of members of the Executive Committee and the office bearers who should have been appointed as per the said Rule 7). More importantly, however, there is no explanation at all before the Tribunal as to why despite the Notice dated 29 July 2024 (Doc B), the Respondent still failed to submit its annual returns for the periods ending 31 December 2022 and 31 December 2023 whilst it had been given a further delay until 29 August 2024 (beyond the statutory delay) to submit these.

The Respondent has failed to comply with very important provisions of the Act and with the Notice dated 29 July 2024 which was duly served on the Respondent (as per the registered address of the Respondent). The Tribunal cannot condone such failures on the part of the Respondent and has no hesitation in finding that the Applicant has proved

its case on a balance of probabilities that the registration of the Respondent should be cancelled on the ground of breach of section 7(1)(d) of the Act.

Rule 28 of the Rules of the Respondent provides as follows:

28. DISSOLUTION

- (a) *The Trade Union may be dissolved if a resolution for its dissolution is approved at a Special General Meeting of the trade union by a majority vote of the members present and voting thereat.*
- (b) *In the event of the union being dissolved as provided above, all debts and liabilities legally incurred on behalf of the union shall be discharged and the remaining funds and property divided equally among the members whose names are not crossed out of the register of members in accordance with these rules.*

For the reasons given above, the Tribunal directs the Applicant to cancel the registration of the Respondent. Any assets of the Respondent shall be disposed of by the procedure provided at Rule 28(b) of the Respondent. In case the Respondent is not wound up as per the above and section 7 of the Act, the Respondent shall be wound up by the Applicant in the prescribed manner.

(SD) Indiren Sivaramen

Acting President

(SD) Bhawantee Ramdoss

Member

(SD) Christelle Perrin D'Avrincourt

Member

(SD) Ghianeswar Gokhool

Member

20 February 2025