

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (M/B) NO. 111 OF 2023

22ND JUNE, 2023

BETWEEN:

M/s Roquette India Pvt. Ltd.

.....Petitioner.

And

Secretary, Department of Labour, Government of Uttarakhand
& others

....Respondents.

Counsel for the Petitioner : Mr. Siddhartha Sah and Mr. J.K. Chaudhary, learned counsel.

Counsel for the State : Mr. Pradeep Joshi, learned Additional Chief Standing Counsel with Ms. Puja Banga, learned Brief Holder.

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Sri Vipin Sanghi)

The petitioner has preferred the present writ petition to seek the following reliefs:-

"(i) Issue a Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, Order or Direction, directing the Respondent No.2 to immediately consider the application dated 25.12.2021 of Petitioner seeking cancellation of registration of Respondent no.5, and dispose of the same preferably within three months; and

(ii) Issue a Writ, Order or Direction in the nature of Certiorari or any other appropriate Writ, Order or Direction quashing the reference dated 16/9/2022 of alleged 'Industrial Dispute' made by Respondent no.1 to the Industrial Tribunal, Haldwani (as contained in its Summons dated 24.09.2022 Annexure No.20) in relation to Charter of Demand dated 08.02.2022; and

(iii) Issue a Writ, Order or Direction in the nature of Certiorari or any other appropriate Writ, Order or Direction quashing the order dated 26.04.2023 issued by Respondent no.3/4 according protected workmen status to office bearers of Respondent no.5 (contained in Annexure No.35); and

(iv) Issue a Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, Order or Direction restraining the Respondent Authorities no.2, 3 and 4 from considering and/ or framing up any further reference of 'Industrial Dispute' qua the claim of Respondent no.5 for extra shift/ overtime payment, claim for recovery of alleged increment in salary, or other issues in favour of the supervisory employees of Petitioner; and

(v) Issue a Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, Order or Direction directing the Respondent Authorities to take notice of the frivolous and malicious issues being raised while abusing the façade of Respondent no.5 and desist from considering them; and/ or

(vi) Pass any other other(s) as this Hon'ble Court feels fit and proper under the facts and circumstances of the present case".

2. The cornerstone of the reliefs sought by the petitioner is the case of the petitioner that the members of respondent no.5- Roquette India Karamchari Sangh (*for short 'Sangh'*), are all serving in supervisory capacity, and are not the 'workmen' within the definition of that said term defined in Section 2(z) of the U.P. Industrial Disputes Act, 1947.

3. The State Government has already made a reference on 16.09.2022 of the claims made by respondent no.5 and its members. In those proceedings, the petitioner has already filed its written statement squarely taking the plea that the members of the said *Sangh* are not workmen.

That issue would, therefore, fall for consideration by the Labour Court seized of the reference aforesaid.

4. In the present proceedings, we are not inclined to go into the said issue in the first instance, as it was required determination of the factual controversy.

5. We, therefore, dispose of this petition with a direction to the Labour Court concerned, which is seized of the reference dated 16.02.2022 made by the State Government, to decide the same at the earliest. The preliminary objections to the maintainability of the reference, raised by the petitioner on the ground that the members of respondent no.5- *Sangh* are not "*workmen*", shall also be considered, and decided by the Labour Court concerned.

6. We hope and expect that the Labour Court shall conclude the proceedings pending before it within the next nine months.

7. Since the said issue is also pending before respondent no.2 on the application made by the petitioner for cancellation of the registration of respondent no.5- *Sangh*, respondent no.2 should also expedite its proceedings and take a decision thereon within the next six months.

8. The writ petition is disposed of in the aforesaid terms.

9. Pending application, if any, also stands disposed of.

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 22nd June, 2023

NISHANT