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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 11980 OF 2015**

**M/S SANJEEV AUTO PARTS MFG PRIVATE LTD THROUGH ITS  
AUTHORIZED GENERAL MANAGER**

**VERSUS**

**BHARTIYA KAMGAR SENA THROUGH ITS GENERAL SECRETARY  
AURANGABAD**

**WITH**

**WRIT PETITION NO. 11981 OF 2015**

**M/S SANJEEV AUTO PARTS MFG PRIVATE LTD THROUGH ITS  
AUTHORIZED GENERAL MANAGER**

**VERSUS**

**BHARTIYA KAMGAR SENA THROUGH ITS GENERAL SECRETARY  
AURANGABAD**

...

Advocate for Petitioner : Shri Kawre B.R.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 14<sup>th</sup> December, 2015**

**Per Court:**

1            In both these petitions, the Petitioner- Management is aggrieved by the orders dated 02.11.2015 and 01.12.2015 passed by the Industrial Tribunal. These two petitions are being heard together since the Company is the same having it's manufacturing units at K-96 and M-115 of MIDC, Waluj, Aurangabad. So also, two reference cases i.e. Reference (IT) Nos.2/2013 and 04/2013, in which the Petitioners are "First Party", are pending before the Industrial Tribunal in which identical orders are passed by the Industrial Tribunal dated 02.11.2015 and 01.12.2015.

2           Shri Kawre, learned Advocate for the Petitioner in both these petitions, submits that the applications Exhibits C/17 and C/20 in the first petition and Exhibits C/18 and C/20 in the second petition, were moved before the Industrial Tribunal praying for framing of preliminary issues as regards the maintainability of the reference as well as for deciding the said issue peremptorily.

3           Shri Kawre informs that the Petitioner has challenged the order of reference issued by the appropriate Government, by which these two reference cases have been registered before the Industrial Tribunal, in Writ Petition Nos.6851/2015 and 6838/2015. He submits that though both these reference cases were registered in 2013, the Petitioner has challenged the reference orders and both these petitions are presently pending before the Division Bench of this Court.

4           He submits that whether, the Respondent Union has any locus standi to agitate on behalf of the workers of the Petitioner by forming an Union, needs to be decided. If the Respondent Union is not legally connected with the Petitioner Establishment, it would not have the right to espouse the cause of these workers before the Industrial Tribunal. This issue needs to be decided before touching the merits of the demands put

forth by the Respondent Union through it's Charter of Demands.

5           He further submits that by order dated 05.08.2014 delivered by the Industrial Tribunal, interim relief was refused to the Respondent Union since the Industrial Tribunal hoped to decide the two reference cases by giving them priority to meet the ends of justice. This order was challenged by the Respondent Union in Writ Petition Nos.1625/2015 and 1627/2015 before this Court. By the oral judgment dated 19.08.2015, this Court disposed of the petitions by issuing certain directions.

6           Shri Kawre submits that unless the issue of locus standi is decided by the Industrial Tribunal, there is no point in taking up the matters on its merits. It would be a wasteful exercise if all the issues are taken together and if the Industrial Tribunal eventually comes to the conclusion that the Respondent Union does not have the locus to espouse the cause of workers working in both these manufacturing units.

7           I have heard Shri Kawre and have recorded his submissions as above.

8           The Respondent Union was refused interim relief by the Industrial Tribunal by it's order below Exhibit U/4 in both the reference

cases only on the ground that the reference cases are being expedited and as such, instead of taking up the issue of interim relief or maintainability, the entire reference cases could be given priority and could be decided as early as possible.

9           The relevant observations of the Industrial Tribunal in paragraphs 15 and 16 in it's order dated 05.08.2014 read as under:-

- “15.       ..... Now, such issue in respect of locus-standi of IInd party or maintainability or otherwise of the reference shall have to be decided on the basis of evidence adduced by both the parties at the final disposal of the reference. Merely because such issues are raised, there is no reason to immediately frame preliminary issue and to defer decision of application for interim award considering the disposal of preliminary issue. For these reasons, the submission of the learned Advocate for the Ist party cannot be accepted at this stage.
16.       The reference is received recently in 2013. Along with statement of claim itself, the IInd party has opted to file the present application for interim award as the IInd party is worried about the cause of permanent workers of the Ist party. Hearing of the reference can be taken up by giving priority and it can be decided as early as possible in order to meet the ends of justice.”

10           It also cannot be lost sight of the fact that this Court had considered the observations of the Industrial Tribunal as reproduced above, in it's oral judgment dated 19.08.2015 and therefore, had disposed of the petitions filed by the Respondent Union by recording in paragraph

13 as follows:-

- “13. In the light of the above, I pass the following order:-
- (A) The respondent shall continue to pay the minimum rates of wages as per prescribed rates from time to time to all the employees.
  - (B) In the event there is any short fall in such payment, the respondent shall deposit the said amounts before the Tribunal, so as to be paid to such employees in whose cases, there is a short fall.
  - (C) The petitioner is at liberty to file an application for indicating to the Industrial Tribunal instances of any short fall in Minimum wages and the Industrial Tribunal shall expeditiously decide such application.
  - (D) In the event the respondent is paying higher wages to the employees in comparison to the minimum rates prescribed, the respondent shall continue to do so during the pendency of the reference proceedings.
  - (E) All contentions of the litigating sides are kept open.
  - (F) The Industrial Tribunal shall decide these reference cases on/or before 29.2.2016.”

11 In the light of the above, I am unable to accept the submissions of the Petitioner for the reason that interim relief was refused to the Respondent Union so as to ensure expeditious disposal of the reference cases. The Industrial Tribunal has, therefore, rightly come to the conclusion in the impugned orders that owing to the observations of the Industrial Tribunal in the order dated 05.08.2014 which was upheld by this Court, an endeavour was to decide the reference cases expeditiously. The Industrial Tribunal has, therefore, rightly concluded that framing of preliminary issues and deciding the same before touching the merits of the

matter, would result in delaying the reference cases.

12           The interest of the Petitioner has been safeguarded in paragraph 15 of the order of the Industrial Tribunal dated 05.08.2014 which has been reproduced herein above. Considering those observations which have been upheld by this Court in its order dated 19.08.2015, it is incumbent upon the Industrial Tribunal to decide the objections of the Petitioner along with all other issues, together. The learned Division Bench of this Court has not granted any interim relief to the Petitioner in Writ Petition Nos.6838/2015 and 6851/2015 challenging the order of reference after two years. These petitions are still pending.

13           As such, by observing that the Industrial Tribunal may decide all the issues including the issue as observed in paragraph 15 of its order dated 05.08.2014, together by way of final adjudication of the two reference cases, I do not think that the impugned orders could be termed as being perverse or erroneous.

14           Both these petitions, being devoid of merit are, therefore, dismissed.

**(RAVINDRA V. GHUGE, J.)**