

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.5627 OF 2015

Lok Kalyan Mazdoor Union & Ors.

...Petitioners.

V/s.

Greaves Cotton & Allied Company Employees
Union, Mumbai & Anr

...Respondents.

Mr. A. S. Rao, Advocate for the petitioners.

Mr. K. M. Naik, Sr. Counsel a/w Mr. Atman Mehta, Hemant
Telkar i/b. Haresh Mehta & Co. Advocate for the respondent
No.1.

Mr.Nitin Kulkarni, Advocate for respondent No.2.

CORAM : Smt. R. P. SondurBaldota, J.

DATE : 7th July, 2015.

P.C.:

1. This petition is directed against the interim order dated 30th January, 2014 passed by the Industrial Court rejecting the application filed by the petitioner for suspension of registration of the Respondent No.1, recognized union during pendency of the application u/s.13(1) (I) & (iv) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (for short MRTU and PULP Act).

2. The petitioner union filed Application (MRTU) No.4/2014 seeking cancellation of recognition of respondent No.1/Union contending that the registration of the Union had been obtained by misrepresentation and also on the ground that respondent No.1-Union is not acting in the interest of the employees but has been acting in the interest of the employer-respondent No.2. Consequently, several employees of respondent

No.2 have allegedly resigned from membership of respondent No.1 and joined the petitioner.

3. Respondent No.1 had applied for registration of its recognition on 10th January,2014. The notice in respect of the same was issued on 17th January,2014. On 22nd January,2014 Respondent No.2-Company appeared before the Court and gave it's no objection for recognition of respondent No.1. By the order dated 30th January, 2014 respondent No.1 was registered as a recognized union for respondent no.2. According to the petitioner the fact that entire action of grant of recognition to respondent no.1 was completed in such a short time by itself is sufficient to hold that the recognition was obtained by misrepresentation or fraud.

4. For establishing ground under section 13(1)(iv) the petitioner alleges that the settlement arrived at by respondent no.2 with respondent no.1 in the year 2013 takes away the benefits received under the earlier settlements of the year 2008 and 2010. According to the petitioner the actual financial loss cause to the workmen is to the extent of Rs.8,266/-.

5. Admittedly the petitioner was not concerned with respondent no.2 when respondent no.1 got recognition. It is challenging the process of recognition on the ground the documents produced in the process were not verified. The Industrial Court on prima facie view found no merit in the challenge. It noted that in the application for recognition 100% membership was shown during 6 months from July 2013 to December 2013. Respondent no.1 was registered in the year

1946 and it had been representing the employees of respondent no.2 for many years.

6. As regards the changes made in the terms and conditions by the subsequent settlement the Industrial Court held that the settlement had been accepted by majority of the employees. Therefore the union could not be blamed of the conduct contemplated in section13(1)(iv) of MRTU & PULP Act. Besides the challenge to that was being raised after lapse of 1 year. There is one more reason for not accepting the contention of the petitioner at the prima facie stage. The petitioner has referred to only one of the terms under the subsequent settlement. What is necessary to see is the overall effect of the settlement.

7. There is no infirmity whatsoever in the view taken by the Industrial Court in the impugned order. Hence the writ petition is dismissed with costs.

(SMT. R. P. SONDURBALDOTA, J.)