

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 1772 OF 2000.

M/s Sahney Kirkwood Ltd., & anr. .. Petitioners

Vs.

The Engineering Workers Union Mumbai. .. Respondent

Mr.H.H.Madon, for the Petitioners.

None for Respondent.

CORAM: N.M.Jamdar, J.

Wednesday 9 September, 2015

PC.:

By this petition, the Petitioners challenge the order dated 16 December 1999 passed by the Industrial Court Thane, in Complaint (ULP) No.594 of 1991. The Industrial Court by the impugned order has directed the Petitioners to pay bonus and ex-gratia amount at the rate of 8.33 per cent as per the settlement of the workmen, after holding that the Petitioners have committed unfair labour practices.

2. The petition was admitted on 4 October 2000, and at that time the Court had permitted the Respondent-union to withdraw the amount deposited by the Petitioners pursuant to the order of the Industrial Court and the withdrawal was made subject to the result of the petition. Thereafter the matter appeared on board on various occasions. None appeared for the Respondent. On 2 September 2015 following order came to be passed -

“None appears for the respondent. None appeared on earlier occasion also. Office remark shows that respondents have been served. Learned counsel for the petitioners submits that the petitioners have paid the amount as directed by the Industrial Court and he seeks time to place this fact on record by way of an affidavit.”

3. Pursuant to the order as directed the Petitioners filed affidavit dated 8 September 2015 wherein it is stated that the amount of ₹18,134 directed by the Industrial Court has been deposited and most likely to be withdrawn by the Respondent-union. The learned counsel for the Petitioners submits that even though the withdrawal of the amount has been subject to the outcome of this petition, the Petitioners have no intention of recovering the amount from the Respondents if they have already withdrawn the same or if they withdraw the same now.

4. Considering the fact that the amount directed to be paid by the Industrial Court has already been paid and that the Petitioners have no intention of withdrawing the same nothing further survives in this petition. The learned counsel for the Petitioners submits that however Criminal Complaint has been filed by the Respondent. He submits that Criminal Complaint is simply filed and not prosecuted by the Respondent, but the Petitioners are apprehensive that coercive action may be taken on the basis of finding in this petition. Considering the fact that the Respondent has not appeared clearly because they have no grievance left, it will not be fair and equitable to keep the Writ petition so also the Criminal Complaint pending.

5. Accordingly, **Rule** is made absolute in terms of prayer clause (b) with liberty to the Petitioners to produce this order before the Industrial Court.

(N.M.Jamdar, J.)

“Certified to be true and correct copy of original signed Order.”