

Sequeira

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

WRIT PETITION NO. 10108 of 2015

M/s.General Pharmaceuticals
Machinery Company and ors.

.. Petitioners

Vs.

Shramik Mahasangh & ors.

.. Respondents

Mr.A.K.Jalisatgi a/w Mr.C.M.Lokesh, for Petitioners.

Mr.S.M.Shettigar, for Respondent Nos.1 to 10.

***CORAM: N.M.Jamdar, J.
Monday, 7 December 2015***

P.C. :

The Petitioners challenge the order passed by the Industrial Court Mumbai, allowing the complaint filed by the Respondent-Union bearing Complaint (ULP) No.523 of 2010.

2. The Industrial Court allowed the complaint filed by the Respondent-Union and directed the Petitioners to pay unpaid earned wages without interest to the concerned employees from June 2010 to November 2010 and unpaid bonus for the year 2008-2009 and 2009-2010 without interest as per settlement, to pay unpaid and balance leave amount from 30 June 2010 without interest and directed that the Petitioners should provide complainants work in amalgamated Company and pay wages regularly.

3. The learned counsel for the Petitioners submitted that there was a closure with effect from 15 June 2010 and a notice to that effect was issued on 15 June 2010 which was displayed on the notice board. This submission cannot be accepted. The Industrial Court has found that there has been no communication of this alleged notice to the concerned employee. Nothing is shown as to how this notice is communicated to the employees. The contention of the learned counsel for the Petitioners that when the notice is produced in the Court it amounts to communication to the employees, cannot be accepted. A clear finding is recorded by the Industrial Court that the closure was not legal and the amount directed to be paid by the impugned order has remained unpaid. That the amount has not been paid is not disputed and cannot be denied. These are the legitimate dues of the workmen who are ready to work. This direction of the Industrial Court therefore, cannot be faulted with. The cross-examination of the Petitioners witness is replete with admissions. On the basis of these admissions no fault can be found with the impugned order.

4. The learned counsel for the Petitioners then submitted that the direction to provide work in the amalgamated Company is incorrect as there is no connection with these two units as well as there is no such pleading. In the cross-examination the witness of the Petitioners has admitted that his sons are the partners in this 'Mahaal Engineering'. It has also come on record that the orders

which were received by the earlier unit have been diverted to the said Mahaal Engineering which is in operation till date. Considering these admissions and the material placed on record the Industrial Court has come to the conclusion that there has not been a legal closure and the unit simply operates under different name which is run by the sons of the Petitioner No.2. It has also been admitted by the witness of the Petitioners in the deposition given in February 2015 that the said Mahaal Engineering work is in operation. The monetary relief that has been granted is without interest.

5. Considering the facts and circumstances, no error or perversity can be found in the impugned order neither, there is any failure of justice. Writ petition is **rejected**.

(N.M.Jamdar, J.)