

JPP

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

WRIT PETITION ST. NO. 27379 OF 2015

Siemens Ltd. and Ors.,
Having Registered Office at
130, Pandurang Budhkar Marg,
Dr. Annie Besant Road, Worli,
Mumbai – 400 018.

... Petitioners.

V/s.

Siemens Workers' Union,
Having their Office at :
C/o. Siemens Ltd.,
C-1, Additional Industrial Area,
MIDC, Ambad,
Nashik – 422 010.

... Respondents.

Mr. S.K. Talsania, Sr. Advocate a/w. Pramod Anaokar for the
Petitioners.

Mr. Bennet D'Costa for the Respondents.

CORAM : N.M. JAMDAR, J.

DATE : 12 OCTOBER, 2015.

P.C. :-

Taken on production board.

2. Leave to amend to delete Petitioner No.2. He is stated to have retired from service. Amendment to be carried out

forthwith.

3. By consent of parties taken up for final disposal as the subject matter are interim orders in a pending complaint.

4. The first grievance made by the learned Senior Counsel for the Petitioners is that the issue regarding maintainability of the complaint has not been tried as a preliminary issue and deferred to be decided at the time of hearing. Considering the fact that the complaint is now 5 years old and is ready for evidence, the approach of the learned Judge in deferring the issue of maintainability at the time of final disposal cannot be faulted.

5. The learned Senior Counsel for the Petitioners then submitted that the issue of maintainability itself has not been framed. Though it may be desirable to have a separate issue, on that ground alone interference in writ jurisdiction is not warranted, as in any case it is obligatory on the Industrial Court to decide at the time of final hearing whether the complaint is maintainable. The learned Counsel for the parties also agree that this aspect will have to be considered at the time of hearing of the complaint.

6. As regard the issues which have been recast by order dated 7 March 2015 on the application of the Respondent – Union, the learned Counsel for the parties agree that :

“ Whether the complainant union proves that dominant nature of work of 142 employees is that of workmen under Section 2(s) of the Industrial Disputes Act, 1971 ?”

will be sufficient enough to cover the controversy at hand.
Therefore, the issue :

“ whether Respondent Company proves that the dominant nature of work of 142 employees is of managerial nature i.e. within clause iii of exclusion category of Section 2(5) of Industrial Disputes Act, 1947 ?”,

is not necessary and can be deleted.

7. No further orders are required to be passed except the above clarifications, which the learned Industrial Court will take note of. The Writ Petition is disposed off in above terms.

8. The learned Counsel for the Petitioners requests for a direction to hear the complaint early. The Industrial Court has already expressed that the matter needs to be heard on priority basis and has already taken it up as is currently part-heard and therefore, it is not necessary to direct the Industrial Court to take it up on priority basis again.

9. Mr. Talsania, learned Senior Counsel undertakes that the Petitioners will pay the deficit court fees within period of one week from today. The undertaking is accepted.

(N.M. JAMDAR, J.)