

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

WRIT PETITION NO.4033 OF 1997

- 1 The Bharateeya Kamgar Sena,
Shivsena Bhavan, Ghatkari Chowk,
Shivaji Park, Dadar, Mumbai,
Through:
Ganesh Gangaram Choudekar,
Executive Member,
Central Committee.
- 2 Shri Madhav Manikrao Baswade,
Unit Vice President and Worker,
Bharateeya Kamgar Sena,
Sipta Coated Steels Division,
Aged : 34 years, Occupation : Service,
Thamlar House, ND-2, Near NDD Bank,
Cidco, Nanded.

...PETITIONERS

-VERSUS-

- 1 The Hon'ble Member,
Industrial Court, Jalna.
- 2 M/s Jai Corp Ltd.,
Sipta Coated Steels Division,
A-3, MIDC Industrial Area,
Nanded.
Through the Director.
- 3 The State of Maharashtra.
Through the Government Pleader,
High Court, Aurangabad Bench.

...RESPONDENTS

...
Shri V.N.Upadhye h/f Shri T.K.Prabhakaran, Advocates for the Petitioners.
Shri S.K.Kadam, Advocate for Respondent No.2
Shri S.N.Kendre, AGP, for Respondent No.3

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 22nd December, 2016

Oral Judgment :

1 Respondent No.1 is a formal party, therefore, deleted from the proceedings.

2 I have considered the submissions of Shri Upadhye, learned Advocate for the Petitioner and Shri S.K.Kadam, learned Advocate on behalf of Respondent No.2.

3 It is informed that after Complaint (ULP) No.172/1997 was filed by the Petitioner/ Union against the Respondent/Employer before the Industrial Court at Jalna, the learned Presiding Officer/ Member was not empowered considering the effect of Section 4 of the MRTU & PULP Act, 1971, which reads as under:-

“4. *Industrial Court*

(1) *The State Government shall by notification in the Official Gazette, constitute an Industrial Court.*

(2) *The Industrial Court shall consist of not less than three members, one of whom shall be the President.*

(3) *Every member of the Industrial Court shall be a person who is not connected with the complaint referred to that Court, or with any industry directly affected by such complaint:*

Provided that, every member shall be deemed to be connected with a complaint or with an industry by reason of his having shares in a company which is connected with, or likely to be affected by, such

- complaint, unless he discloses to the State Government the nature and extent of the shares held by him in such company and in the opinion of the State Government recorded in writing, such member is not connected with the complaint, or the industry.*
- (4) *Every member of the Industrial Court shall be a person who is or has been a Judge or a High Court or is eligible for being appointed a Judge of such Court :
Provided that, one member may be a person who is not so eligible, if he possesses in the opinion of the State Government expert knowledge of labour or industrial matters."*

4 The Petitioner had filed this petition to seek a direction that once the Presiding Officer of a particular Labour or Industrial Court is transferred and another officer is appointed, the issue of issuing the notification as a condition precedent for permitting the judicial officer to start functioning as a Court should be done away with.

5 It appears that in the last 20 years, the situation has changed.

6 In the light of the above, I do not find that this petition needs to be entertained. In the event, any such situation occurs in future, the grievance can be considered at an appropriate stage in an appropriate proceeding. The Writ Petition is, therefore, disposed of. Rule is discharged.