

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

WRIT PETITION NO. 6342 OF 2016

Shivkranti Kamgar Sanghatana	...Petitioner
vs.	
Keihin Fie Employees Union & Anr.	Respondents

Mr.Nitin Arvind Kulkarni for Petitioner.
Mr.Sanjay Singhvi, Senior Counsel for Respondent No.1.
Mr.A.D. Patwardhan with Mr.T.R. Yadav for Respondent No.2.

CORAM : S.C. GUPTE, J.

13 JUNE 2016

P.C. :

Heard learned Counsel for the parties.

2 This petition impugns a judgment of the Industrial Court at Pune in an application filed by the first Respondent union under Section 14 of MRTU and PULP Act, 1971, seeking registration as a recognized union in place of the Petitioner union. By the impugned judgment, the Industrial Court allowed the application and cancelled the recognition of the Petitioner union.

3 The Petitioner is a union registered under the Trade Unions Act, 1926 and claims to be a recognised union of the second Respondent company under the MRTU and PULP Act, 1971 ("Act"). The first Respondent union claims to have been registered on 20 August 2013. It is the case of the first Respondent that during the period from September 2013 to February 2014, all 410 employees in the second Respondent company were its members. In the meeting of the Executive Committee of the first Respondent union held on 6 March 2014, it was decided to apply for registration as a recognised union for the second Respondent undertaking. It is the case of the Respondent union that its constitution provides for all the matters mentioned in Section 19 of the Act. The first Respondent accordingly applied for recognition under Section 14 of the Act.

The Industrial Court, after going through the entire record, hearing the evidence and submissions made, found that all the employees of the second Respondent, who were members of the Petitioner union till around 2012-13, chose to form the first Respondent union by electing office bearers on 15 August 2013 and proceeded to obtain registration under the Trade Unions Act, 1926 on 20 August 2013; and that there was abundant documentary as well as oral evidence indicating very clearly that the first Respondent had almost all the employees of the second Respondent as its members during the relevant period of six months prior to the date of the application. The Industrial Court accepted the affidavits submitted by 406 out of 410 employees of the second Respondent by way of evidence. The affidavits clearly indicated that the employees had paid subscription to the Petitioner only upto 2012 but not thereafter; and that they had paid monthly subscription to the second Respondent union during the relevant period and had the original receipts for the same. On this evidence, the Industrial Court found a case having been made out by the first Respondent under Section 14. As against the evidence led by the first Respondent union, no contrary evidence was led by the Petitioner union. During the relevant period, the membership of the Petitioner union was found by the Industrial Court to be nil. On these facts and particularly considering that almost all the employees of the second Respondent were with the first Respondent union and wanted to continue, the Industrial Court found no reason to discard its claim for recognition. In the premises, the recognition of the Petitioner union was cancelled and the first Respondent union was directed to be registered as a recognised union in its place.

4 The record of the case is clearly capable of sustaining the impugned order. The Industrial Court has not disregarded any important or germane material or taken into account any irrelevant material to arrive at its findings.

5 Learned Counsel for the Petitioner submitted that the documents indicated in Section 19 of the Act were not produced by the first Respondent union in support of its application. What Section 19 requires is that the rules of

the union seeking registration as a recognised union under the Act must provide for the matters referred to therein and observe the provisions thereof. It does not require as a matter of law the production of any of these documents in support of the application for recognition. Besides, as rightly held by the Industrial Court, the relevant documents may not have been produced but there was evidence before the court as to the existence of these documents, which was not capable of being seriously disputed. As many as 406 out of total 410 employees of the second Respondent have stated on oath that they had paid subscription to the Petitioner union only upto 2012 and that in 2013, they paid the first Respondent union's entrance fee. They have also deposed to their subsequent payments of monthly contributions throughout the period between September 2013 and February 2014. The workmen have also relied upon receipts issued by the Union acknowledging such payment. Apart from these individual affidavits, there is also the affidavit of the President of the first Respondent union which produces minutes of General Body and Executive Committee of the union and also office copies of receipt books of membership subscription and certified copy of the bank account and deposes as to the truth and correctness of the contents. All this clearly supports the Industrial Court's conclusion that the first Respondent union has the requisite strength of members and is entitled to registration as a recognised union. Sufficiency of evidence is not a matter which the writ court will go into. Its inquiry is limited to seeing that there is material on record to sustain the conclusion drawn by the Industrial Court and that there is no irrelevant or non-germane material considered and no relevant or germane material disregarded by the Industrial Court.

6 Learned Counsel for the Petitioner also submitted that an erstwhile office bearer of the Petitioner union, one Mr.Amrut Chaudhary, actually collected Rs.3.99 lakhs from the second Respondent company and paid subscriptions of all these workmen to the first Respondent. He submitted that the Petitioner union wanted to examine Mr.Chaudhary on this point and had made an application for issuing witness summons to him, which application was rejected by the Industrial Court. In the first place, there is not even a pleaded case on the part of the Petitioner union that Mr.Chaudhary paid all the subscriptions through Rs.3.99

lacs received from the second Respondent company. Secondly, the record of the case clearly indicates that Mr.Chaudhary had examined himself in the matter and was also cross-examined by the Petitioner union. The Industrial Court, in its order dated 17 March 2016, passed in the course of the hearing of the application, observed that since Mr.Chaudhary as a witness stood fully cross-examined and since there was no pleading of what was claimed by the Petitioner union and submitted through counsel, it was not necessary to issue a summons for recall of this witness. No fault can be found with this approach of the Industrial Court. It cannot, by any stretch of imagination, be termed as either perverse or impossible or leading to any failure of justice.

7 In the premises, there is no merit in the petition and the same is dismissed. No order as to costs. On the application of the Petitioner, it is ordered that the impugned order of the Industrial court shall take effect after four weeks from today.

(S.C. Gupte, J.)