

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.2264 OF 2016

Organon (India) Pvt. Ltd.

..Petitioner

Versus

Organon (India) Ltd. Workers & Employees Union

..Respondent

Mr. R. V. Paranjpe for the Petitioner.

Mr. R. D. Bhat for the Respondent.

CORAM : R. M. SAVANT, J.

DATE : 20th SEPTEMBER, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 21.07.2016 passed by the Learned Presiding Officer, Industrial Tribunal, Mumbai, by which order, the Industrial Tribunal adjudicated upon the preliminary issue as to whether the Reference was maintainable and ruled that the said Reference was maintainable.

2 The Respondent herein is a union claiming to represent a majority of the workers working with the Petitioner company. It seems that the Respondent has entered into settlements with the Petitioner in the years 1996, 2001 and 2005. On the period of the last settlement coming to an end sometime in the year 2008, a charter of demands was raised by the Respondent Union claiming wage revision and increase in

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other benefits. On account of the dispute which had arisen and on account of the charter of demands being raised, the matter was referred to the Industrial Tribunal for adjudication and bears Reference (IT) No.1 of 2010. The Petitioner herein questioned the locus-standi of the Respondent to raise the said charter of demands and consequentially questioned the maintainability of the Reference. The Industrial Tribunal accordingly framed a preliminary issue which was to the following effect :-

“Whether the Reference is maintainable for adjudication before the said Tribunal ?”

The Respondent led evidence in support of its claim that it has a majority of the workers as its members. The documents relating to subscription in respect of 107 of the 176 workers was produced through the witness of the Respondent. The fact that the Respondent had entered into settlements upto the year 2005 with the Petitioner was also brought on record. On behalf of the parties reliance was placed on various judgments in support of their respective assertions. However, in the context of the locus-standi of the Respondent being questioned by the Petitioner, the judgment of the Apex Court in **Bombay Union of Working Journalists and others Vs. Hindu, Bombay and another decided on September 27,1961(XXX FJR 207)** as also the judgment of the Apex

Court in M/s. Tala Chemicals Ltd. Vs. The Workmen employed under M/s. Tata Chemicals Ltd., reported in 1978 LAB.I.C. 637 were relied upon by the Learned Presiding Officer of the said Court.

3 In so far as the judgment in *Bombay Union of Working Journalists and others* case (*supra*) is concerned, it has been held therein that a dispute which is prima-facie an individual dispute in the beginning can become a “industrial dispute” for the purposes of the Industrial Disputes Act, 1947, only when it has been established that it has been taken up by a trade union of the workmen of the employer or by an appreciable number of the workmen of the employer.

4 In *M/s. Tata Chemicals Ltd.*'s case (*supra*), it has been held even if a settlement regarding certain demand is arrived at otherwise than during the conciliation proceeding between the employer and the union representing majority workmen, the same is not binding on the other union who represents minority workmen and who was not a party to that settlement. It has further been held that the other union can therefore raise the dispute in respect of the demand covered by the settlement and the same can be validly referred for adjudication.

5 The Learned Presiding Officer of the Industrial Court having

regard to the facts on record as also having regard to the aforesaid position in law, deemed it appropriate to rule that the Reference is maintainable.

6 The Learned Counsel appearing on behalf of the Petitioner Mr. R. V. Paranjpe would seek to question the finding recorded by the Industrial Court, firstly on the ground that the Respondent Union has no adequate membership. Secondly, on the ground that the Industrial Court has in the impugned order referred to the Respondent Union as the recognized union when according to the Learned Counsel such is not the position. The Learned Counsel also sought to question the maintainability on the ground that most of the workers are now holding managerial position and therefore the demand raised by the Respondent on behalf of the said workmen was not maintainable.

7 In my view, it is not possible to accept the said contentions urged by the Learned Counsel for the Petitioner. As indicated above, there is evidence on record to show that out of 176 workers 107 prima-facie are the members of the Respondent Union. In so far as the second contention is concerned, no doubt in the impugned order a reference has been made to the Respondent Union as being the recognized union, but the same can be attributed to an aberration as immediately in paragraph

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24, it has been observed by the Industrial Court that the Respondent Union represents the general interest of the employees in the establishment of the first party, and the same would not get affected even if it is not a recognized union and lastly the issue as to whether the members to the Respondent Union are in the managerial position or not is an issue which can be gone into at the hearing of the main complaint. The impugned order passed by the Industrial Court does not suffer from any error of jurisdiction or any other illegality or infirmity for this Court to interfere in its writ jurisdiction under Article 226 of the Constitution of India. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]