

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9976 OF 2017

SURYAKANT ANIRUDDA SOLUNKE AND OTHERS
VERSUS
M/S NSL SUGAR LTD BEED AND OTHERS

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Advocate for Petitioners : Shri Khandelwal Rajesh K.
Advocate for Respondent 1 : Shri Dankh Sachin V.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 24, 2017

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PER COURT :-

1. The petitioners are aggrieved by the order dated 24.7.2017 only to the extent of Clause B of the operative part of the order, which is passed by the Industrial Court, Aurangabad, on an application Exhibit 2 under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“the said Act”).

2. I have considered the extensive submissions of the learned Advocates for both the sides and considering their submissions, I do not find that this petition needs to be kept pending.

3. The suspended petitioners, who are facing a domestic enquiry under the certified standing orders, will be at liberty to engage their Union representatives as their defence representatives on the condition that the defence representative should be an elected office bearer of the Union, which has signed the settlement with the respondent / management. So also, each defence representative may be allotted a maximum of five enquiries, keeping in view that the enquiries cannot be prolonged only because one defence representative is engaged and he is busy in other matters. The respondent is agreeable.

4. The respondent / management has engaged three management representatives and it is stated that none amongst them is a legal trained person or an LL.B. graduate or an Advocate. The request by the petitioners to engage an Advocate cannot, therefore, be entertained, though it may so happen that any of their Union elected office bearers could be a law graduate.

5. Learned counsel for the respondent / management

submits that presently, there is a lay off and that is kept in view while paying suspension allowance notwithstanding the fact that the lay off has been challenged by the workers.

6. Even otherwise, in my view, if there is any shortfall in the suspension allowance, the petitioners can surely raise this ground at an appropriate stage before an appropriate forum after the enquiries have concluded and the Court dealing with such contentions shall consider the same on its own merits and in accordance with law.

7. In so far as recording of the evidence of the management witnesses in English is concerned, the respondent informs that some witnesses are non-Marathi speaking employees of the management and Marathi translation of their deposition is given to the concerned charge sheeted workman so as to facilitate their cross-examination.

8. In so far as a general contention by the petitioners that some of the management witnesses have been discharged without cross-examination is concerned, the petitioners would be at liberty to move an application before the Industrial Court

in the pending complaint by properly identifying each of such cases. Since the issue is not a subject matter of this petition, I am not making any observations on the merits of the said submission.

9. By recording the above statements made by both the sides and in the light of the above observations, this petition is disposed off.

(RAVINDRA V. GHUGE, J.)

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