

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 6860 OF 2016

Shri. Adinath Sahakari Sakhar
Karkhana Ltd.

...Petitioner

Versus

Karmala Taluka Sahakari Va Khajagi
Sakhar Karkhana Kamgar Sanghathana (INTAK)
And Ors.

...Respondents

....

Mr.Surel S. Shah, Advocate for the Petitioner.

Mr.Y.G. Thorat a/w. Kanta Shinde i/b. A.B. Tajane, Advocate for
Respondents No.2, 3, 5 to 9 and 11 to 16.

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CORAM : R. G. KETKAR, J.

DATE : 10th JULY, 2017

P.C.

1. Heard Mr.Surel S. Shah, learned counsel for the petitioner and Mr.Y.G. Thorat, learned counsel for respondents No.2, 3, 5 to 9 and 11 to 16, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 30.10.2014 passed by the learned Member, Industrial Court, Solapur (for short, 'Tribunal') in complaint (U.L.P.) No.18/2009. By that order, the Tribunal dismissed the

complaint made by the petitioner under Section 28 read with Items 1, 5 and 6 of Schedule III of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'Act').

3. The petitioner instituted complaint on the ground that from 14.6.2009, respondents No.2 to 17, the workers of the petitioner proceeded on illegal strike. They were also instigating non-striking workers for not doing the work. Due to the instigation, other workers also started illegal strike without any intimation or notice.

4. The complaint was dismissed mainly on the ground that the petitioner examined Shri Vishnudas Shinde at Exhibit CW-1 and Shri Nitin Gholap at Exhibit CW-2. The petitioner also relied upon the documents that were produced on record. As against this, respondents No.2 to 16 examined themselves at Exhibit UAW-1 to UAW-14.

5. In paragraph-16 of the impugned order, the Tribunal observed that during the course of cross-examination, Shri.Shinde admitted that he did not look after the punching machine at main gate at factory premises and he did not know

the name of representative union functioning in the sugar factory. He further admitted that after making entry, the respondents workers were going to their respective departments. In paragraph-17, the Tribunal considered the evidence of these witnesses as also the reports dated 20.6.2009 submitted by the Chief Engineer, Chief Chemist and Security Officer at Exhibits-22 to 28, wherein there was no reference of these respondents No.2 to 17. It was held that it is doubtful whether respondents No.2 to 17 proceeded on an illegal strike. In paragraph-19, the Tribunal also noted that no cogent and reliable evidence is produced about the respondents threatening to other non-striking workers.

6. For the reasons recorded in paragraphs-16 to 20 of the impugned order, I do not find that the Tribunal has committed any error in dismissing the complaint. Hence, the Petition fails and the same is dismissed.

(R. G. KETKAR, J.)