

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27496 of 2013

Date of Decision: 13.02.2017

The Ropar District Cooperative  
Milk Producers Union Limited

... Petitioner

Versus

The Milk Plant Workers Union and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. D.S. Patwalia, Sr. Advocate,  
with Mr. Gaurav Rana, Advocate,  
for the petitioner.

None for respondents No.1, 2 & 3.

Mr. J.S. Toor, Advocate,  
for respondent No.5.

**RAJIV NARAIN RAINA, J.**

1. Notice to respondent No.4 is dispensed with.
2. No one appears for the likely to be affected respondents despite service of the petition on them as early as on March 19, 2014. They have neither appeared nor filed reply so far.
3. A point of jurisdiction is involved in this petition whether the demand notice served by the respondent-Union upon which reference has been made for adjudication is determinable by the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh or by the Labour Court at Patiala.
4. The UT Administration has filed a written statement contesting the petition and asserting in their reply that the Central Government/UT Administration was the appropriate Government to make the reference to the Presiding Officer, Industrial Tribunal, Labour Court, Chandigarh.

5. On the other hand, Mr. D.S.Patwalia, learned Senior counsel submits that the demands raised by the workers of the petitioner i.e. The Ropar District Cooperative Milk Producers Union Limited, Milk Plant, S.A.S. Nagar, Mohali arise in the territory of the State of Punjab. The petitioner is an independent society registered under the Punjab Cooperative Societies Act, 1961 and merely because the apex body i.e. Milkfed has its Head Office in Chandigarh would not confer territorial jurisdiction to the Labour Court at Chandigarh to adjudicate the disputes, the situs falling within the territory of Mohali, Punjab.

6. Mr. Patwalia submits that the “appropriate government” would be the Punjab Government to make reference of the dispute to the Area Labour Court. Moreover, none of the members of the Union work in the Union Territory of Chandigarh although the Milk Plant lies in close proximity on the outskirts of the city of Chandigarh but actually falls in District Mohali. The Union itself is known as The Milk Plant Workers Union which suggests what Mr. Patwalia indicates. Merely, because the Union runs its office in Sector-45, Chandigarh would not confer territorial jurisdiction on the Tribunal at Chandigarh. Also the records of the case likely to be produced lie within the territory of Punjab.

7. In this petition, challenge has been laid to the reference order dated March 21, 2013 by the Government of India in the Ministry of Labour acting as appropriate government under Section 10 read with Section 2 (k) of the Industrial Disputes Act, 1947.

8. It appears that the Central Government was not properly advised and was perhaps misled by the addresses of parties shown at

Chandigarh without being informed that the corpus of the dispute falls within the territory of Punjab and, therefore, the Central Government was not the appropriate Government to make the reference. If there is no territorial jurisdiction in the Tribunal at Chandigarh, the reference order is without jurisdiction and consequently has to be set aside.

9. However, setting aside the reference order and leaving the Union stranded will not serve the ends of justice. Since Central Government has applied its mind that the dispute exists between the parties which has to be resolved by peaceful means of adjudication to restore peace and harmony in the industry, the reference order is removed from the file of the Central Government notionally and is placed before the “appropriate government” [See Section 1 of the Act] exercising jurisdiction under Section 10 of the 1947 Act, that is, the Government of Punjab which will consider making a reference to the Labour Court concerned within three months. It will be the duty of the petitioner particularly when the Union is not represented to inform the appropriate quarters in the Punjab Government of the passing of this order for necessary action. Let this be done within one month from the date of receipt of certified copy of this order.

10. At this stage, on the oral request of Mr. Patwalia and Mr. Toor who no longer opposes the petition in view of the legal position explained above, the State of Punjab is impleaded as respondent No.7. Office to make suitable addition by dealing hand in the Memo of Parties.

11. A copy of this petition be handed over to Mr. Rahul Verma, AAG, Punjab who is present in Court who, on the asking of the Court, accepts notice on behalf of his Government to enable him to inform the

Labour Department, Punjab to take immediate steps without delay in referring the dispute to the Area Labour Court exercising jurisdiction over the Milk Plant at Mohali.

12. As a result, the petition is allowed. The impugned reference order is quashed with the above observations and directions.

13. Mr. Patwalia's client would make an appropriate application before the Presiding Officer, Industrial Tribunal-cum-Labour Court, Chandigarh to close the file and remit the papers to the designated authority in the Labour Department, Punjab. Once reference is made to the jurisdictional Labour Court then the Labour Court would pick up the threads from where the Labour Court at Chandigarh left the proceedings in view of the interim orders dated December 13, 2013 staying the proceedings.

14. A copy of this order be sent by the office to respondents No.1 to 3. It will also be the duty of the petitioner to inform the Union in writing of the order passed today so that they can take effective steps to protect their interest in the new Forum when reference order is made. In case, the workers do not appear on the first date of hearing before the new Labour Court, it would issue notices to them and give them a reasonable opportunity of coming forward to press their demands for adjudication.

(RAJIV NARAIN RAINA)  
JUDGE

13.02.2017  
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Whether speaking/reasoned Yes

Whether reportable No