

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 258 OF 2005

Khandesh Jarda Kamgar Union,
Amalner R/o Trade Union Centre,
Sathe Building,
Rani Laxmi Chowk, Amalner,
Taluka Amalner, District Jalgaon.
Through its General Secretary,
Santosh s/o Pundalik Mali,
Age : 74 years, Occupation : Social Service,
R/o Amalner, Taluka : Amalner,
District Jalgaon.

...PETITIONER

-VERSUS-

Patel Jarda Shramik Sangh,
Amalner, R/o Vishwakarma Bhavan,
Dhule Road, Amalner, District Jalgaon.
Through Shri P.J.Banasure,
General Secretary,
Bhartiya Mazdoor Sangh,
H-11, 3rd Floor, B.J.Market,
Jalgaon, District Jalgaon.

...RESPONDENT

...
Advocate for the Petitioner : Shri A.S.Shelke.
Advocate for the Respondent : Shri L.V.Sangit.
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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th May, 2018

Oral Judgment :

1 The Petitioner Union is aggrieved by the judgment and order

dated 26.07.2004 delivered by the Industrial Court, Jalgaon, by which, the Application (MRTU) No.2/2002 filed by the Petitioner under Section 13(4) of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (for short "the 1971 Act") seeking cancellation of the recognition of the Respondent Union, has been dismissed.

2 This petition was admitted by order dated 20.12.2005.

3 I have considered the strenuous submissions of the learned Advocates for the respective sides and have gone through the 15 grounds for challenge formulated by the Petitioner Union. I have also gone through the impugned judgment in detail.

4 Section 13 of the 1971 Act, which provides for cancellation of recognition, reads as under :-

"13. Cancellation of recognition and suspension of rights.

(1) *The Industrial Court shall cancel the recognition of a union if after giving notice to such union to show cause why its recognition should not be cancelled, and after holding an inquiry, it is satisfied,—*

(i) that it was recognised under mistake, misrepresentation or fraud; or

(ii) that the membership of the union has, for a continuous period of six calendar months, fallen below the minimum required under Section 11 for its recognition :

Provided that, where a strike (not being an illegal strike under the Central Act) has extended to a period exceeding fourteen days in any calendar

month, such month shall be excluded in computing the said period of six months:

Provided further that, the recognition of a union shall not be cancelled under the provisions of this sub-clause, unless its membership for the calendar month in which show cause notice under this section was issued was less than such minimum; or

(iii) that the recognised union has, after its recognition, failed to observe any of the conditions specified in section 19; or

(iv) that the recognised union is not being conducted bona fide in the interests of employees, but in the interests of employer to the prejudice of the interest of employees; or

(v) that it has instigated, aided or assisted the commencement or continuation of a strike which is deemed to be illegal under this Act; or

(vi) that its registration under the Trade Unions Act, 1926, (XVI of 1926) is cancelled; or

(vii) that another union has been recognised in place of a union recognised under this Chapter.

- (2) *The Industrial Court may cancel the recognition of a union if, after giving notice to such union to show cause why its recognition should not be cancelled, and after holding an inquiry, it is satisfied, that it has committed any practice which is, or has been declared as an unfair labour practice under this Act:*

Provided that, if having regard to the circumstances in which such practice has been committed, the Industrial Court is of opinion, that instead of cancellation of the recognition of the union, it may suspend all or any of its rights under sub-section (1) of section 20 or under section 23, the Industrial Court may pass an order accordingly, and specify the period for which such suspension may remain in force."

cancelled or suspended if any of the seven grounds set out under Section 13(1) are attracted. Upon perusing the pleadings of the parties and after going through the judgment delivered by the Industrial Court, I do not find that any of the said seven grounds can be said to be attracted so as to cancel the recognition of the Respondent Union.

6 It is settled law that grant of recognition to a Union bestows the special status of a sole bargaining agent on such a Union. The recognition is granted by the Industrial Court under Sections 11 and 12 of the 1971 Act. Such recognition cannot be cancelled casually or by considering the allegations lightly.

7 In the light of the above, I do not find that the impugned judgment could be termed as being perverse or erroneous. This petition being devoid of merit is, therefore, dismissed. Rule is discharged.

8 Needless to state, the dismissal of the application of the Petitioner by the Industrial Court and the dismissal of this petition by this Court, would not be an impediment for the Petitioner to seek cancellation of the recognition of the Respondent Union any time in future and if such an application is made, the Industrial Court would consider the said application strictly within the ambit of Section 13 of the 1971 Act.