

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4079 OF 2017

Satyavan Dharma Patil and ors. : Petitioners.
Versus
The Assistant Commissioner of Labour
Thane (West) and anr. : Respondents.

Mr. M A Patil i/by Mr. A P Pawar for the Petitioners.
Mrs. Rupali M Shinde, AGP for the Respondent No.1.
Mr. Sudhir Talsania, Senior Advocate i/by Mr. Pramod Anaokar and Mr.
Rahul D Oak a/w Mr. Siddesh S Shetye for the Respondent No.2

**CORAM : R. M. SAVANT &
M. S. KARNIK, JJ.**
DATE : 19th SEPTEMBER 2018

P.C.

1 The above Writ Petition has been filed challenging the communication dated 21/10/2013 of the Assistant Commissioner of Labour, Thane addressed to the Petitioners who are 83 in number.

2 By the said communication dated 21/10/2013 the Assistant Commissioner of Labour has informed the Petitioner that the dispute which is sought to be raised being collective in nature, the said dispute cannot be permitted to be raised under the Industrial Dispute Act as a collective dispute filed on behalf of the said 83 persons. The Assistant Commissioner of Labour has adverted to the fact that under the MRTU & PULP Act 1971 there is a recognized union being Siemens Workers Union. Implicit in the said communication the Assistant Commissioner of Labour is the fact that unless the

dispute which is sought to be espoused by the Petitioners who are 83 in numbers is espoused by the Union in existence in the Respondent No.2 or the workers who are presently working in the Respondent No.2, the same cannot be entertained and there can be no intervention by way of conciliation.

3 It is required to be noted that the Petitioners had filed number of Complaints against their termination under the MRTU and PULP Act 1971 one of them being Complaint ULP No.167 of 2005. The said complaints came to be disposed of by issuing the following directions :-

- “1 The respondents shall prepare and maintain waiting list of the temporary employees as provided under Clause 4-D of the Model/Certified Standing Orders.
- 2 As and when recruitment is to be made, the respondents shall give preference to the employees in the waiting list including the complainants as provided under Clause 4-D.
- 3 No order as to costs.
- 4 This order shall take effect one month hence.

4 It seems that the Petitioners vide their representation dated 08/04/2013 submitted on 26/06/2013 to the Assistant Commissioner of Labour sought to raise a dispute as regards non-compliance of the directions which were issued in the said Complaints (ULPs), as also sought to raise a issue as regards non-consideration of a issue by the Industrial Court whilst deciding the said

Complaints (ULPs). It seems that pursuant to the said representation, some hearing took place before the Assistant Commissioner of Labour and ultimately the Assistant Commissioner of Labour by the impugned communication dated 21/10/2013 has informed the Petitioners as regards his inability to enter upon the conciliation for the reasons mentioned in the said communication.

5 In our view, no exception could be taken to the reasons mentioned in the said communication which we have adverted to herein above. The Petitioners are no more employees of the Respondent No.2, their cause is also not espoused by the Union which is in existence in the Respondent No.2 or the workmen who are working with the Respondent No.2. Apart from the aforesaid, it is required to be noted that if the Petitioners have any grievance in respect of non-implementation of the directions as contained in the order passed by the Industrial Court in the said Complaints (ULPs), the same would not give rise to an Industrial Dispute. The Petitioners would have to seek appropriate recourse in that regard under the provisions of the MRTU & PULP Act 1971.

6 The reliance placed on the judgment of the Apex Court reported in AIR 1966 SC 182 in the matter of Workmen of M/s. Dharam Pal Prem Chand (Saugandhi) v/s. M/s. Dharam Pal Prem Chand (Saugandhi) is misplaced in view of the fact that the factual situation prevailing in the said case stands

apart from the factual situation of the Petitioners inasmuch as the workmen in the said case were the employees of the Company who were seeking to raise an industrial dispute, such is not the case in the instant matter.

7 In that view of the matter, no case for interference is made out. The above Writ Petition is accordingly dismissed.

[M.S.KARNIK, J]

[R.M.SAVANT, J]

Laxmikant
Gopal
Chandan

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by Laxmikant
Gopal Chandan
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