IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO. 65 OF 2017
IN
WRIT PETITION NO. 891 OF 2013

Standard Chartered Bank	}	**Petitioner**
versus		
Grindlays Bank Employees	}	
Union and Ors.	}	**Respondents**

Mr.Kiran Bapat with Mr.Ashwin Hawelikar i/b. Mr. Vikramsingh Yadav for the review petitioner.

Ms. Bhavana Mhatre for respondent no. 1.

Mr. Parag Vyas for respondent no. 2.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- JUNE 12, 2018

P.C. :-

1. The petitioner before us seeks a review of the order dated 5th January, 2017 passed in Writ Petition No. 891 of 2013. That writ petition was filed by Grindlays Bank Employees Union against the Union of India and Ors. That writ petition impugns an order of the Union of India, through the Ministry of Labour and Employment dated 18th April, 2013. That was an order contained in a communication and which informed *inter alia* the union that

the dispute is not considered fit for adjudication. That is on the ground that neither the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 nor the provisions of the Industrial Disputes Act, 1947 are applicable to the security guards provided in any establishment by the Security Guards Board, which is constituted under the Maharashtra Act, namely, the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. The order further said that the Board is not a contractor. Hence, no dispute subsists.

2. This order was impugned by the union on the ground that the Central Government, while deciding an application of the union seeking a reference of their demands to the competent Industrial Tribunal, is not empowered to adjudicate the dispute on merits. That is the province solely and exclusively of the competent Industrial Tribunal. The Union Government/Ministry of Labour and Employment, in the garb of dealing with the application of the Grindlays Bank Employees Union, seeking a reference of the demand, has entered into the merits of the dispute. That is transgressing and it is beyond the powers of the Central Government.

3. In such a petition, what this court has done is to quash this communication and direct the Central Government to refer the

dispute between the employees' union and the third respondent-bank to the competent court/tribunal. In that petition, the union had impleaded the employer, namely, Grindlays Bank (see page 51 of the review petition).

4. The review is sought by the Standard Chartered Bank on the ground that the employees' union was throughout aware that the Grindlays Bank has no identity, in the sense, in terms of the arrangement between the Grindlays Bank and the Standard Chartered Bank, it is the Standard Chartered Bank, which has taken over the business as also the liabilities of the erstwhile Grindlays Bank. Therefore, a non-existing entity was made a party, that was purportedly served and the writ petition was decided on the premise that the Grindlays Bank is duly served, but absent.

5. Mr. Kiran Bapat appearing for the Standard Chartered Bank-review petitioner would submit that the petitioner was a necessary party to the petition. The Standard Chartered Bank having not been made a party, despite the employees' union being aware that the business of Grindlays Bank is taken over by the Standard Chartered Bank and even otherwise not serving a copy of this writ petition on the Standard Chartered Bank would denote that the order under review is *ex-parte*. A service on a

non-existing entity would not suffice in law. Then, it is argued by Mr. Bapat that there is enormous delay in seeking a reference and had the Standard Chartered Bank been put to notice, it would have argued that firstly, the Central Government is exercising powers under the Industrial Disputes Act, 1947. It does not apply to the members of the employees' union, who are security guards whose services are regulated by the Maharashtra Act of 1981. They could not have sought a reference of their demands to the Industrial Tribunal and by invoking the Industrial Disputes Act, 1947. Hence, this order under review should be recalled and the petition be heard again.

6. On the other hand, the Grindlays Bank Employees Union (original petitioner) has filed an affidavit. It is stated that the petitioner-union represents the security guards and it is a registered union. Initially, the bank was known as ANZ Grindlays Bank. In the year 2000, the said bank merged with Standard Chartered Bank and took over the liabilities, including those of the staff of ANZ Grindlays Bank. Then, again the entity underwent change of name to Standard Chartered Grindlays Bank and finally, Standard Chartered Bank. It is stated that whatever may be this internal arrangement, eventually, the notices were served, as is clear from the record, on the office

address and that is 270, Dr. D. N. Road, Fort, Mumbai-400 001. Though Grindlays Bank is made a party respondent, the office premises were now used by the Standard Chartered Bank. The correspondence addressed to the said office was acknowledged on behalf of the Standard Chartered Bank. Even though the description in the earlier proceedings between the parties was either ANZ Grindlays Bank or Standard Chartered Grindlays Bank, it is the Standard Chartered Bank, which accepted the notices without any demur or protest. Hence, it is too late to say that the proceedings in the writ petition were not served.

7. Secondly, it is contended that once the order under challenge was passed by the Central Government and the Central Government could not have entered, much less adjudicated the merits of the dispute, then, it is apparent that the Standard Chartered Bank was at best a proper party and not a necessary party. It can always urge in the pending proceedings that the Industrial Tribunal should not grant any relief because it lacks jurisdiction, as it is set up or is exercising powers traceable to the Industrial Disputes Act, 1947 and that is not applicable to the security guards. This is an aspect on merits and it should not be adjudicated upon either by the Central Government or by this court in its writ jurisdiction and the review petition be dismissed.

8. After having heard both sides, we find that there is no merit in this review petition. It is eventually a communication of the Central Government and which was subject matter of challenge in Writ Petition No. 891 of 2013, on which the order under review was passed. That communication itself is addressed by the Government of India, Ministry of Labour to both, the Associate Manager-Employee Relations, Standard Chartered Bank Ltd. and the General Secretary, Grindlays Bank Employees Union. It is the union which was aggrieved by this communication for it raised a demand that the management of the Standard Chartered Bank has failed to grant the benefit of regularisation and absorption of security guards, who are nothing but the permanent workmen and their termination from services is illegal. It is on such a request from the Grindlays Bank Employees Union that the Central Government informed that *prima facie* this dispute between the management and the employees union cannot be referred for adjudication to the Industrial Tribunal and it purported to assign reasons, which touched the merits of the dispute. Thus, the Central Government refused to make a reference. Whether that refusal was in accordance with law or the Central Government acted beyond its jurisdiction and powers vesting in it under the Industrial Disputes Act, 1947 was the central issue.

9. Once the law is clear that while dealing with such an application of the employees' union, the Central Government could not have entered into much less adjudicated on the merits of the dispute and its plain duty was to refer that dispute to the Industrial Tribunal for adjudication, then, we do not see how by quashing of that communication alone, the review petitioner is aggrieved. It is not as if the review petitioner's arguments or objections on merits of the dispute are foreclosed in any manner. Rather, our order does not make any observation on the merits of the dispute far from holding that the members of the union are entitled to the reliefs on both, facts and in law. All the arguments are open for being canvassed and particularly when the dispute is already referred now to the Central Government Industrial Tribunal, Mumbai. The Standard Chartered Bank is not foreclosed from arguing that the members of the petitioner-union are not entitled to invoke the Industrial Disputes Act, 1947 and therefore, the reference itself was not maintainable and/or the Industrial Tribunal lacks jurisdiction. Secondly, it can urge that assuming without admitting such a reference is maintainable, still, the union and its members are not entitled to any relief because of the enormous delay in raising the demands or in seeking the reference. All such contentions can be decided

irrespective of the order passed in the writ petition of the union. The order under review does not foreclose any of these pleas, much less holds that on merits, the union is entitled to relief. Once this is clear from the law itself, then, we do not see how we can entertain the review petition only on the ground that the review petitioner before us was not served and that Standard Chartered Bank was the legal entity which was concerned and affected by the proceedings. This is a mixed issue and we do not see how absence of notice can be now raised as a point or a ground for review. More so, when, on affidavit, the original petitioner-union has pointed out that the review petitioner was aware of the legal proceedings, the dispute and it has dealt with the union in the past. It has also been operating from the same office address. In these circumstances, we do not see how this can be made a ground for seeking the review.

10. Equally, the judgment of the Hon'ble Supreme Court cited by Mr. Bapat in the case of *Krantikari Suraksha Rakshak Sanghatana vs. Bharat Sanchar Nigam Limited and Ors.*[1] can be brought to the notice of the Industrial Tribunal and can always be relied upon by the review petitioner.

1 (2008) 10 SCC 166

11. In these circumstances, the review petition is entirely misconceived and no grounds to review our order are made out. It is dismissed. There would be no order as to costs.

(B.P.COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**