

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4395 OF 2015

M/S. Perfect Engine Component Pvt. Ltd.

.. Petitioner

Vs.

Pune Mazdoor Sanghatana

.. Respondent

Mr. K. M. Naik, Senior Advocate i/b. Mr. S. P. Salkar for the Petitioner.

Mr. A. S. Rao for the Respondent.

CORAM : A.K. MENON, J.

DATED : 4th FEBRUARY, 2019.

P.C. :

1. Heard learned counsel for the parties. Considering the facts, the submissions made before the Court and having perused the impugned order and judgment dated 13th February, 2015 passed by the Industrial Court, Pune in Complaint (ULP) No. 24 of 2014, I am of the view that the matter needs to be remanded. The impugned judgment framed three substantial of which the first issue reads as under :

*1) Whether the concerned employees are not
“employees” as defined under the Act?*

2. It appears from the reading of the reasoning in paragraph 13 and 14 that the Court came to the conclusion that the workmen concerned were admittedly engaged in supervisory capacity. This is evident from paragraph 14. Quite apart from the fact that the designation of these persons may be

immaterial, in the very same paragraph the Court records that workmen concerned are also reporting to their superiors including a production manager and on that basis it is concluded that they are workmen and entitled to maintain the complaint under the MRTP & PULP Act. Ex-facie this is contradictory in terms and it is appropriate that the matter is considered afresh.

3. Accordingly I pass the following order :

(i) The impugned order is set aside. The complaint shall be heard afresh.

Since the complaint is of the year 2014 and this petition has been pending since the year 2015, the Court will accord appropriate priority and hear the matter in accordance with its turn without granting any adjournment unless found absolutely essential.

(ii) All issues are kept open.

(iii) Since recording of evidence is now complete the Court will proceed to hear arguments of the counsel and Court will decide the matter afresh without being influenced by the observation of this Court.

(iv) Mr. Naik states that a Criminal Complaint No. ULP/9 of 2015 is pending in the Labour Court Pune and that the matter is being heard from time to time. In view of the order passed today, it will be appropriate that

the Labour Court shall not proceed with the said ULP No. 24 of 2014 pending final disposal of the complaint.

(v) Writ petition disposed of in the above terms.

(A.K. MENON,J.)