

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7892 OF 2019**

Pune Mahanagar Parivahan
Mahamandal Ltd.

.... Petitioner.

V/s

PMT Kamgar Sangh (INTUC), Pune

..... Respondent.

Mr. Rohit Sakhadeo for the Petitioner.
Mr. S.S. Panchpor, AGP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: AUGUST 14, 2019

P.C.:-

1] Impugned in the present Petition is a judgment dated 16/4/2019 passed by the Industrial Court.

2] Facts necessary for deciding the present Writ Petition are as under:-

3] Petitioner, a Transport Undertaking (Company) which provides transport facility to the public at large within Pune and Pimpri-Chinchwad area, was inducted as Respondent in Complaint (ULP) No.258 of 2013, which was initiated on the file of Industrial Court,

Pune. The said complaint was initiated under Section 28(1) read with Item No.3 of Schedule II and Item Nos. 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971. The Respondent claims to be a Trade Union registered under the Trade Unions Act, 1926 and also recognized under the provisions of MRTU & PULP Act. It is claimed that there are more than 1000 employees working with the Petitioner.

4] The State Government, vide its resolution dated 19/04/2007, has permitted the merger of Pune Municipal Transport and Pimpri Chinchwad Municipal Transport and formed Pune Mahanagar Parivahan Mahamandal Limited ("PMPML"), a new Company.

5] In the challenge to the said formation of new Company at the behest of Respondent, the present Petitioner has admitted that service conditions of the employees working with it will not be changed.

6] It is the case of the Respondent that it was working with Pune Municipal Transport prior to formation of aforesaid new Company and was a party to certain settlements arrived at between 1992 to 1997 and 1997 to 2002.

7] It is claimed that present Petitioner passed a Resolution No.64 dated 18/10/2013 for deduction of subscription by filing consent letter by concerned employees. It is alleged that the said settlement was contrary to Clause No.45 of the settlement already arrived at, as it is the recognized Union who has right to collect the contribution of Union fund from the members and non-members. It is claimed that the present Petitioner has sponsored another Union viz Rashtrawadi General Kamgar Sanghatana. As a consequence of sponsoring of Rashtrawadi General Kamgar Sanghatana, it is claimed that deduction towards contribution from members and non-members was diverted to the said Union pursuant to Resolution No.64 dated 18/10/2013. As such, questioning the said Resolution, complaint in question came to be filed.

8] The said complaint filed at the behest of the present Respondent against the Petitioner came to be allowed by Member, Industrial Tribunal on 16/04/2019, thereby declaring that Petitioner has engaged in unfair labour practice under Item No.9 of Schedule IV of MRTU & PULP Act, 1971 and further declaring that Resolution passed by the

Petitioner bearing No.64 dated 18/10/2013 is illegal and void.

9] Directions were issued to the Petitioner to deduct the subscription allowance from the salaries of the members of the complainant i.e. Respondent-Union as per letter dated 30/10/2013 and remit the same to the Respondent-Union. It is this order which is questioned in the present Petition.

10] Learned Counsel for the Petitioner would urge that, the Application (MRTU) No.1 of 2013 was preferred by PMPML Karmachari Mahasangh against the Petitioner and the Respondent including that of Rashtrawadi General Kamgar Sanghatana for granting of recognition. It was dismissed on 17/09/2018.

11] According to the learned Counsel for the Petitioner, the complaint preferred by the Respondent was questioning the Resolution No.64 and for diverting contribution to Respondent came to be moved in the backdrop of dismissal of Application (MRTU) No. 1 of 2013. According to him, after the new Company was formed, present Respondent has lost its status as that of recognized Union and that

being so, Complainant-Respondent cannot claim privileges of recognized Union. According to him, the amount is already diverted to the recognized Union viz Rashtrawadi General Kamgar Sanghatana, referred to above and that being so, the impugned order is not sustainable.

12] The learned AGP assisted the Court in deciding the matter.

13] What can be noticed is, Resolution No.64 came to be quashed and set aside by the Member, Industrial Court vide impugned order dated 16/04/2019 with further directions to deduct subscription allowance from the salaries of members of Complainant-Union as per letter dated 30/10/2013 with remittance of the same in favour of Respondent.

14] Deduction of the contribution of the members of Respondent-Union from their wages and its remittance in favour of Respondent-Union is based on the consent extended by such members.

15] Once employees/members, from whom deduction is made

towards contribution to be given to the Respondent-Union, have not objected to the same, I hardly see any locus in the Petitioner to question the order impugned much less legal basis for the same.

16] Just because there is another sponsored Union viz Rashtrawadi General Kamgar Sanghatana referred to above, that by itself will not preclude the Respondent-Union from claiming the contribution from its members who have already consented for the same.

17] Petitioner has failed to demonstrate any statutory embargo on such claim being adjudicated in favour of the Respondent-Union.

18] In the aforesaid backdrop, I see no reason which warrants interference in the extra ordinary jurisdiction. Petition as such fails and same stands dismissed.

(NITIN W. SAMBRE, J.)