

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.6687 of 2018

**(Shrikant Sahadeorao Bhaladane and ors. .vs. A.D.M. Agro Industries, Kota
and Akola Pvt. Ltd.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. V.R. Deshpande, Advocate for Petitioners.
Mr. D.M. Kakani, Advocate for Respondent.

CORAM : Manish Pitale, J.
DATED : March 08, 2019.

By this writ petition, the petitioners have challenged order dated 13.07.2018 passed by the Industrial Court, Akola, whereby application (Exh. U-7) filed on their behalf for amendment of their complaint and for filing additional document was rejected. It was made clear by the learned counsel for the petitioners that the prayer for filing additional document was not pressed before the Industrial Court by filing pursis and stating that a separate application for that purpose would be moved. Therefore, this writ petition is restricted to the question as to whether the Industrial Court was justified in rejecting the prayer made on behalf of the petitioners seeking amendment of the complaint.

2. The petitioners and 82 others filed Complaint (ULP) No.4 of 2018 before the Industrial Court against the respondent, contending that the respondent had indulged in unfair labour practice under the provisions

of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. It was stated in the complaint that the complainants had given a power of attorney in favour of complainant Nos. 1 to 5 for filing the complaint before the Industrial Court and that a copy of the said document was placed on record. The said complaint was signed by 82 out of the 84 complainants before the Industrial Court.

3. The respondent filed its written statement in response to the said complaint and raised certain preliminary objections, including an objection that although a reference to power of attorney was made in the complaint, no such document was placed on record and that, therefore, the complaint deserved to be rejected on that ground itself.

4. During the pendency of the complaint, on 03.03.2018, the petitioners herein moved an application for permission to amend paragraph 2 of the complaint so as to replace the words referring to power of attorney given in favour of complainant nos. 1 to 5 with the words "that all the complainants have given authority letter in favour of complainant Nos. 1 and 2". It was contended in the said application that if the amendment was allowed, which was of formal nature, no prejudice would be caused to the respondent and that the mistake committed in filing the complaint due to oversight would stand rectified. The said application was opposed on behalf of the respondent.

5. By the impugned order dated 13.07.2018, the Industrial Court has rejected the application on the ground that while the complaint was signed by 82 out of 84 complainants, the application for amendment was filed only by complainant Nos. 1 and 2, although the Industrial Court noted that subsequent to filing of the application for amendment, a pursis dated 22.06.2018 was filed by the other complainants stating that the application for amendment may be treated as having been filed by all the complainants and that all the complainants had indeed authorised complainant Nos. 1 and 2 to file the complaint. Despite taking note of the aforesaid pursis, the Industrial Court has rejected the application for amendment filed on behalf of the petitioners.

6. In the present case, although it appears that the petitioners (complainants) did commit certain errors in drafting and filing the complaint before the Industrial Court, but efforts have been made subsequently to rectify such error. The only question is as to whether the defect sought to be rectified on behalf of the petitioners goes to the very root of the matter and whether grant of permission to the petitioners to rectify such mistake/defect would cause any serious prejudice to the respondent herein.

7. A perusal of the impugned order shows that the Industrial Court appears to have taken a very technical view of the matter while rejecting the application for amendment filed on behalf of the

petitioners. It is recorded by the Industrial Court that the original complaint did bear signatures of 82 out of 84 complainants and that reference made to power of attorney was sought to be withdrawn by seeking to place on record letter of authority given by the complainants in favour of complainant nos. 1 and 2. The said facts show that all that the complainants desired to do before the Industrial Court was to ensure that a proper authority was given to complainant Nos. 1 and 2 for pursuing the matter. If such a permission is granted, it would be difficult to understand how the respondent would suffer any prejudice. The complainants are labourers and in most cases they would be at the mercy of their Advocate on the aspects of drafting and filing of the complaint. In that view of the matter and taking into consideration the fact that the respondent would not suffer any prejudice if the application for amendment filed on behalf of the petitioners is allowed, this Court is of the view that the impugned order cannot be sustained.

8. Accordingly, the writ petition is allowed. The application for amendment (Exh.U-7) is allowed to the extent of prayer for amendment made in the said application.

JUDGE