

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.985 OF 2020**

|                                      |      |             |
|--------------------------------------|------|-------------|
| Ballarpur Industries Employees Union | .... | Petitioner  |
| <u>Vs.</u>                           |      |             |
| State of Maharashtra & Ors.          | .... | Respondents |

Mr. Nitin A. Kulkarni for Petitioner

Ms. Vaishali Nimbalkar, AGP for Respondent Nos. 1 and 2, State  
Mr. Prashant P. Shirsagar, Mr. Aniruddha M. Sanap for Sarvadnya Legal  
Associates for Respondent Nos. 3 to 10.

**CORAM : S.C. GUPTE, J.**

**DATE : 11 MARCH 2020**

P.C.:

1. Heard learned counsel for the parties.
2. This writ petition challenges the consent given by the Deputy Registrar of Trade Unions to Respondent nos. 3 to 10 herein under Section 28-1A of the Trade Unions Act, 1926 as it applies in the state of Maharashtra for raising an industrial dispute and applying for a reference.
3. The petition has been filed by the representative union of workmen working for the undertaking of Ballarpur Industries Limited. The union has been recognized under the provisions of MRTU and PULP Act, 1971.

4. Impugned consent of the Registrar has been challenged interalia on the ground that according to the Registrar, the Applicants for consent were not members of registered trade union and if that was so, no consent could have been granted to them under Section 28-1A for reference of any dispute to the Industrial Court constituted under the Bombay Industrial Relations Act, 1946.

5. There is substance in the Petitioner's challenge. In the impugned consent order, the Registrar has proceeded on the footing that the applicants-workmen were denied membership of the registered union. If that is so, obviously no consent could have been granted to them under Section 28-1A of the Trade Unions Act. It is, however, submitted by the contesting Respondents at the hearing of the present writ petition that they have in fact been members of the registered union, i.e. the Petitioner herein, and that there was no way the Registrar could have termed them as non-members.

6. Learned counsel seeks to rely on various documents in support of his contention. It is, however, apparent from the impugned consent order that these documents were not taken into account by the Registrar whilst granting consent under Section 28-1A of the Trade Unions Act. In the premises, it would be in the interest of justice to set aside the impugned consent order and remit the matter to the Deputy Registrar of Trade Unions for fresh consideration of the matter.

7. Learned counsel for the parties agree to such remand. Accordingly, impugned consent certificate dated 21 September 2019 is quashed and set aside and the application for consent made by the Respondent nos. 3 to 10 herein under Section 28-1A of the Trade Unions Act, 1926 is remitted to the Deputy Registrar for a fresh hearing in accordance with law.
8. The Deputy Registrar shall hear the parties and consider the application and pass his order after taking into account what is stated in the present order.
9. All contentions of the parties on merits are kept open.
10. The writ petition is disposed of in the above terms.
11. Learned counsel for Respondent nos. 3 to 10 states that his clients shall withdraw the reference and if fresh consent is given by the Deputy Registrar, shall file a fresh reference. The statement is noted and accepted.
12. The Deputy Registrar is requested to dispose of the application for consent as expeditiously as possible preferably within a period of six weeks from today.

13. Both parties may appear before the Deputy Registrar on 16 March 2020 at 11.00 am. and produce the authenticated copy of this order.

**( S.C. GUPTE, J. )**