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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5938 OF 2019

Chowgule Industries Pvt. Ltd.

...Petitioner

vs

Chowgule Industries Kamgar Sanghatan And Ors.

...Respondents

.....

Mr. Atul Damle, Senior Advocate, a/w. Mr. Rajesh Kinnerkar and Mr. Rupesh Lanjekar, for the Petitioner.

Mr. Avinash Ram Belge, for Respondent No.1.

.....

CORAM : S.C. GUPTE, J.

DATED: 06 FEBRUARY, 2020

P.C. :

. Heard learned Counsel for the parties.

2. This writ petition challenges an order passed by the Industrial Court at Pune on an application under Section 14 of the MRTU & PULP Act, 1971 for registration as a recognised union. The application was by Respondent No.1 herein. Respondent No.2 herein, who was non-applicant no.2 before the Industrial Court, was originally registered as a recognised union, but whose recognition was cancelled by the Industrial Court and that order was confirmed by this Court.

3. According to the applicant, it was a registered union having 63% membership in non-applicant no.1 undertaking for the whole period of six calendar months immediately preceding the month in

which the application was made. The case of non-applicant no.1 before the court was that the applicant union did not have the requisite strength of membership of its employees. Non-applicant no.1 had filed promotion letters of sixteen employees and letters of resignation of six employees. The court did take into account all these letters. Out of twenty two, sixteen were resignations from the membership of the union on account of promotions, whereas six were resignations from non-applicant no.1 undertaking. The court noted that sixteen resignations from the membership of the applicant union were during the pendency of the proceedings before it; these, in fact, showed that on the relevant date, namely, when the application for registration was submitted by it, they were members of the applicant union. Even otherwise, the court came to a conclusion that even if all twenty two employees were to be excluded from the list, the applicant union still met the requisite number of membership. Its membership strength, in that case, would come down to 41%. The court considered in this behalf the admitted position that there were 100 employees. Though some of the employees were termed as managers and not workmen, the court noted that non-applicant no.1 had failed to prove that those posts were under managerial category by leading any evidence. The court noted that what was important was not the designation but the nature of work performed by the employees. In the written statement of non-applicant no.1, there was no contention either about resignations or about promotions of the employees. The court, in the premises, came to a conclusion that the applicant-union had satisfied the condition of requisite membership and was entitled to be registered as a recognised union of the undertaking.

4. The only other aspect agitated by Mr. Damle, learned Senior Counsel appearing for the Petitioner establishment, is that, admittedly, the union does not have a government appointed auditor. It is not in dispute that in its constitution, the applicant-union has a requisite provision for appointment of a government appointed auditor and auditing of its accounts by such auditor. There is, accordingly, no merit even in this contention.

5. There is, accordingly, no merit in the writ petition. The writ petition is dismissed.

(S.C. GUPTE, J.)

**Smita
Gonsalves**

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