

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3372 OF 2019

Priti Gems Exports Pvt.Ltd. & Anr. ...Petitioners
vs.
Bhartiya Diamond Kamgar Sanghatana ...Respondent

Mr.A.K. Jalisatgi I/b. Rakesh Sawant for Petitioners.
Mr.Ashok Shetty i/b. Shashikatn N. Jadhav for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 20 JANUARY 2020

PC. :

Heard learned Counsel for the parties. Rule. Rule taken up for hearing forthwith by consent of counsel.

2 This petition challenges an order passed by the Industrial Court at Mumbai on a complaint of unfair labour practice. The complaint was under Item 9 of Schedule IV of the MRTU and PULP Act, 1971. The prayer sought was in respect of wages payable to the workmen represented by the complainant union. The prayer essentially was for full backwages and continuity of service in case the Petitioner establishment declared closure and appointment of an investigation officer to verify the records maintained by the Petitioner establishment. On this complaint, the Industrial Court proceeded to hold a lock-out declared by the Petitioner establishment later as illegal, without there being any prayer for such declaration. That, obviously, could not have been done. (The Petitioner's case was that it had not declared any lock-out but merely shifted its manufacturing activities to another place.)

3 After this court has heard the matter at some length, it is agreed between learned Counsel for the parties that the petition may be disposed of by quashing and setting aside the impugned order of the Industrial Court dated 4 May 2019 and remitting the complaint to that Court for a fresh hearing in accordance with law and in the light of the observations above.

4 Learned Counsel for the Respondent (original complainant) states that his client shall amend the plaint and include an appropriate relief in respect of lock-out or closure. The complainant may do so. Such application, as and when made, shall be decided on its own merits. All rights and contentions of the parties in that behalf, including the Petitioner's contention concerning of employer-employee relationship between the parties, are kept open.

5 The petition is, accordingly, disposed of by quashing and setting aside the impugned order of the Industrial Court dated 4 May 2019 and remitting Complaint (ULP) No.99/2015 to the Industrial Court for a fresh hearing in accordance with law and in the light of what is observed above.

(S.C. GUPTE, J.)