

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5353 OF 2021

General Motors India Pvt. Ltd.

... Petitioner

V/s.

General Motors Employees Union

... Respondent

Mr. J.P. Cama, Senior Advocate a/w. Mr. Vijay Purohit, Mr. Faizen Mithaiwala i/b. P & A Law Offices for the petitioner.

Mr. Sanjay Singhvi, Senior Advocate a/w. Mr. Nitin Kulkarni i/b. Mr. Rahul Kamerkar for the respondent.

CORAM : G.S.KULKARNI, J.

DATE : 6 October, 2021

P.C.:

1. I have heard for sometime Mr. Cama, learned senior counsel for the petitioner and Mr. Sanghvi, learned counsel for the respondent.

2. The challenge in this petition is to an order dated 17 August, 2021 passed by the learned Member, Industrial Court, Pune, which is an order passed below Exhibit C-5 on an application filed by the petitioner raising an objection to the jurisdiction of the Industrial Court to entertain the complaint filed on behalf of the respondent.

3. The principal contention as urged by Mr. Cama is to the effect that considering the prayers as made in the complaint, necessarily it ought to have been held to be a complaint maintainable before the Labour Court in view of the specific

provisions under section 7 read with Section 5(d) read with Schedule IV Item I of the MRTU & PULP Act. It is Mr. Cama's contention that the issue of maintainability of the complaint ought to have been framed as a preliminary issue and should have been accordingly adjudicated. It is his submission that however, by the impugned order, the learned Member of the Industrial Court has held that such issue on maintainability be adjudicated along with other issues. Mr. Cama submits that such course of action ought not to have been adopted by the Industrial Court, as the issue of maintainability of the complaint went to the root of the matter,

4. Per contra, Mr. Singhvi, learned senior counsel for the respondent has drawn my attention to the various paragraphs of the complaint to submit that necessarily the cause of action for the respondent to file the complaint and its case in the complaint is falling under section 25N of the Industrial Disputes Act. It is hence submitted that the complaint was maintainable before the Industrial Court.

5. A query is made to Mr. Singhvi as to whether the grievances being espoused in the complaint are only the grievance under section 25N of the Industrial Disputes Act? To this Mr. Singhvi states that the complaint of the respondent be considered only as

a complaint under section 25N of the Act and for reliefs which may be entitled to the respondents under the said provisions.

6. In my view, the statement as made by Mr. Singhvi on behalf of the respondent puts an end the anxiety of the petitioner as far as the challenge to the impugned order is concerned. Once the complaint is to be recognized only as a complaint falling under section 25N of the Act and for consequences falling thereunder, it is open to the parties to proceed in such matter as may be permissible in law. In such view of the matter, further adjudication on this petition is not called for. The parties to urge their respective contentions in the pending proceeding of Complaint (ULP) no. 155 of 2021.

7. Petition is accordingly disposed of. No costs.

(G.S.KULKARNI, J.)