

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MISC. CIVIL APPLICATION (REVIEW) 1161 OF 2018
in
WRIT PETITION 5185 OF 2015

Bilt Graphic Paper Products Ltd.,
having its Units at Ashti,
Registeed Office at Ballarpur,
District Chandrapur,
Through Constituted Power of
Attorney Shri Dharmpal Dhiman,
CGM, Aged about 57 years,
Occ. Service, r/o. Bilt Residential
Colony, Village Ellure,
Tah. Chamorshi, Dist. Gadchiroli.

..... **APPLICANT**

...V E R S U S...

1. Gadchiroli District Paper Mill
Kamgar Sangh, through its
President Mr. Rajnath Kushwah,
Aged about 57 yrs, Occ. Service,
r/o. Village Ellure,
Tah. Chamorshi, Dist. Gadchiroli.
2. Anant Pradhan,
Secretary, Gadchiroli District Paper
Mill Kamgar Sangh, aged about 53 yrs,
Occ. Service,
r/o. Village Ellure, Tah. Chamorshi,
District Gadchiroli
3. Bilt Ashti Paper Majdoor Sabha,
Ashti, District Gadchiroli,
through General Secretary,
B.C. Banerjee

... **NON-APPLICANTS**

Mr. R.E. Moharir, counsel for applicant.

Mr. D.G. Takwale, Mr. M.R. Pillai, counsel for non-applicants 1&2.

CORAM: ROHIT B. DEO, J.

DATE : 27.01.2021

ORAL JUDGMENT:

Heard Mr. R.E. Moharir, the learned counsel for the applicant and Mr. D.G. Takwale with Mr. M.R. Pillai, counsel for non-applicants 1 and 2.

2. The applicant is respondent in Writ Petition 5185/2015 which is decided vide judgment dated 24.8.2018.

3. The review application refers to some inadvertent errors purportedly on the counsel in filing submission and annexures. However, I propose to restrict the consideration only to the submission which is canvased.

4. Mr. R.E. Moharir, the learned counsel would submit that the Industrial Court invoked Item 1, 2(b) and 4 of Schedule-III of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971("Act" for short). Mr. R.E. Moharir would submit that while this Court relied on the

Division Bench judgment in ***Maharashtra General Kamgar Union vs. V. Balkrishna Pen Pvt. Ltd. & Ors, 1987(3) Bom. C.R. 425*** to hold that in the absence of the 48 hours opportunity for withdrawal of the strike, the learned Industrial Court could not have declared the strike illegal, the declaration made by the Industrial Court that the Union committed unfair labour practice under Item 1, 2(b) and 4 of Schedule-III of the Act, ought to have been confirmed.

5. The submission (supra) is considered in the judgment of which review is sought, thus:-

“11. The learned Member of the Industrial Court has invoked Items 1, 2(b) and 4 of Schedule-III of the Act. Item 1, as observed supra, would be attracted only if the strike is deemed to be illegal under the Act. Items 2(b) and 4 appear to have been invoked only on the premise that the strike is illegal. The judgment and order impugned is entirely predicated on the finding that taking recourse to strike within forty-eight hours of issuing the notice falls foul of Section 24 of the Act and the strike is, therefore, illegal. In a sense, invoking of Items 2(b) and 4 of Schedule-II of the Act was an exercise consequent to the declaration that the strike is illegal. The judgment and order impugned does not reveal that the learned Member of the Industrial Court considered the applicability of Items 2(b) and 4 independently of Item 1 of Schedule-III of the Act. In the result, the judgment and order impugned is unsustainable and is liable to be set aside, and is accordingly set aside”.

6. I do not see any error apparent on the face of the

record. If according to the applicant, this Court has erred on merits, the remedy is not to seek the review, and the remedy lies elsewhere.

7. No case for review in the judgment is made out.

8. The application is dismissed.

Judge

Belkhede RS