

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.3729 OF 2023
IN WP/13438/2017
WITH
CIVIL APPLICATION NO.3731 OF 2023
IN WP/13445/2017**

**MOHAN KONDAJI KHILLARI AND OTHERS
VERSUS
THE SECRETARY, SANJIVANI GRAMIN SHIKSHAN SOCIETY,
KOPARGAON AND OTHERS**

...

Mr. Vinod P. Patil, Advocate for Applicants
Mr. V.D. Hon, Sr. Advocate i/b Mr. A.V. Hon, Advocate for respondent
Nos.1 to 7

Mr. Rajendrraa Deshmukkh, Sr. Advocate, a/w Mr. Shriram V.
Deshmukh i/b Mr Nikhil P. Ghanwat, Advocate for Respondent No.8

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th APRIL, 2023

PER COURT :

1. By these applications, 50 workers who are members of respondent No.8 union pray that they be added as party respondent Nos.2 to 51 in the respective writ petitions.
2. Respondent Nos.1 to 7/original petitioners filed writ petitions challenging orders dated 19/06/2017 passed by the Member, Industrial Court, Ahmednagar, in Complaint (ULP) Nos.31/2009 and 45/2010 respectively, which are in favour of respondent No.8 Union.
3. Heard learned advocate for applicants, learned Senior Advocate for respondent Nos.1 to 7 and learned Senior Advocate for

respondent No.8. Perused the memo of civil application, annexures thereto and affidavit-in-replies filed by respondent Nos.1 to 7 and respondent No.8.

4. Learned advocate for applicants submits that respondent No.8 Union is not espousing cause of workers and the Union is holding talks with the management, without taking workers in confidence. Union has withdrawn his Vakalatnama and therefore, workers want to individually address their grievance in writ petitions. In support of his submission, he relied on the order passed by learned Single Judge of this Court in *Civil Application No.2050/2016 in Writ Petition No.4197/2003 (Nana Sursingh Patil and Others Vs. The State of Maharashtra and Others)*.

5. Learned Senior Advocate for respondent Nos.1 to 7 has strenuously opposed the applications contending that since Union is representing workers, in view of bar under Section 32 of the Bombay Industrial Relations Act, workers are not entitled for individual representation. In support of his arguments, he relied on *A.S. Krishnamurthy and Others Vs. Central India Spinning, Weaving and Manufacturing Co. Ltd. And Others, 2007(2) Mh.L.J. 503*.

6. Admittedly, respondent No.8 Union filed Complaint (ULP) Nos. 31/2009 and 45/2010, which were allowed. Names of all the applicants appear in the annexures of the said complaints. It is, therefore, clear that applicants were represented by the Union.

7. Except bare statement made in the civil applications, nothing is placed on record by the applicants to substantiate their contention that Union is not espousing their cause. Merely because Vakalatnama of the learned advocate who is representing them in present civil applications is withdrawn by the Union, that by itself is not sufficient to jump to the conclusion that Union is not espousing cause of the workers.

8. In *A.S. Krishnamurthy* (supra), learned Single Judge of this Court has held that, in view of Section 32 of the Bombay Industrial Relations Act, if the representative Union is not appearing in any proceedings under the Act, then only Industrial Court can permit individual to appear. In the light of this ratio also, applications filed by the workers cannot be entertained.

9. In the order passed by learned Single Judge of this Court in Civil Application No.2050/2016, names of the applicants therein were set out in clause 3 of the operative part of the impugned order, and therefore, this Court permitted them to be made parties. Such are not the facts of the present case.

10. In view of Section 32 and considering the fact that Union is representing applicants/workers, there is no merit in the present applications and the same are, therefore, rejected.

(NITIN B. SURYAWANSHI, J.)