

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11157 OF 2016

Hindalco Industries Limited,
a public company registered under
the Indian Companies Act, 1956
and having its registered office at
Century Bhavan, 3rd Floor,
Dr. Anne Besant Road, Worli,
Mumbai - 400 030
And its Plant Office at Village Khutli,
Dadra and Nagar Haveli (U. T.)

....Petitioner

Versus

- 1 Krantikari Kamgar Union,
a trade union registered Under the
provisions of Trade Unions Act, 1926
and having its address at 180 - C,
1st Floor, J. J. Keni Lane,
Dharavi Koliwada, Dharavi Road,
Mumbai - 400 017
2. Mr. Avinash Gupta,
Sole Proprietor of
M/s G. S. Services and having his
officer at Village - Khutli, Khanvel,
Silvassa - 396230
Dadra and Nagar Haveli (U. T.)
3. Mr. Rakesh Sachdeva
an adult Indian Inhabitant Having his
address at Village - Samarvani, Silvassa,
Dadra and Nagar Haveli (U. T.)

.....Respondents

...

Mr. J.P. Cama, Senior Advocate with Mr. P.M. Patel i/b Mr. Rajeev V. Talasikar for Petitioner.

Mr. Sanjay Singhvi, Senior Advocate a/w Mr. Rahil Fazelbhoy and Mr. Ghanashyam Thombare i/b Mr. Rahul Kamerkar for Respondent No.1.

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CORAM	:	SANDEEP V. MARNE, J.
RESERVED ON	:	OCTOBER 05, 2023.
PRONOUNCED ON	:	OCTOBER 12, 2023.

JUDGMENT:

1 This Petition is filed by Petitioner-Hindalco Industries Limited challenging order dated 15 July 2016 passed by the Presiding Officer, Industrial Tribunal, Dadra and Nagar Haveli, Silvassa rejecting its application at Exhibit 41 filed by Petitioner in Reference (IDA) No.3/2011. By that application, Petitioner sought disposal of the Reference for want of cause of action, on account of closure of the Industrial Undertaking as per order dated 27 January 2015 passed by the appropriate government.

2 The appropriate government has referred following Dispute to the Industrial Tribunal by order dated 23 November 2011:

“Whether the action of the Management of M/s. Hindalco Industries Ltd., Khutli in refusing to concede the demands of union placed on behalf of contract workers as contained in their letter dated 20/02/2010 and contract workers demands as contained in their letter dated 11/03/2010 is legal and justified?

If not, to what relief the contract workmen are entitled?”

3 The demands made by the Union on behalf of the contract workers

in letter dated 20 February 2010 are as under:

'SCHEDULE

WE DEMAND THAT THE WORKERS WHOSE NAMES IS MENTIONED IN ANNEXURE "A" TO THIS LETTER BE TREATED AS THE PERMENENT, DIRECT AND REGULAR WORKERS OF YOUR ESTABLISHMENT AT VILLAGE KHUTLI, DADRA & NAGAR HAVELI SINCE THE DATES ON WHICH THEY JOINED WORK, AS MENTIONED IN ANNEXURE "A" AND THAT THEY BE PAID THEIR ARREARS OF WAGES AND BENEFITS AS SUCH, FORTHWITH.'

4 During pendency of the Reference, the appropriate Government granted permission for closure of Industrial Undertaking of Petitioner at village Khutli in the Union Territory of Dadra & Nagar Haveli vide order dated 27 January 2015. The permission is granted subject to the following condition No.2:

'2) In case the reference pertaining to 155 contract workers is decided in favour of the said workmen the responsibility to comply with the orders of Industrial Tribunal shall rest with M/s Hindalco Industries Limited.. The Company shall be liable to pay the dues as per order of Industrial Tribunal which shall be recoverable from the respective Contractor by the Company.'

5 By a separate judgment and order passed today, this Court has upheld the order granting permission for closure dated 27 January 2015.

6 I have heard Mr. Cama, the learned Senior Advocate appearing for the Petitioner-Company and Mr. Singhvi, the learned Senior Advocate appearing for the Respondent No.1-Union.

7 In view of the permission for closure granted on 27 January 2015, the rights and entitlements of members of Respondent No.1-Union (in the event they succeed in the reference) would be restricted to claiming difference of wages upto the date of closure as well as benefits arising out

of settlement entered into with the other permanent workmen. Both Mr. Cama and Mr. Singhvi fairly concede to this position.

8 In that view of the matter, it cannot be said that the Reference filed at the behest of Respondent No.1-Union would be rendered infructuous for want of cause of action on account of passing of closure order dated 27 January 2015. Therefore, it cannot be stated that the Industrial Tribunal has committed any error in rejecting the Petitioner's application at Exhibit 41.

9 The Writ Petition is accordingly disposed of without any orders as to costs.

(SANDEEP V. MARNE, J.)