

Sayali Upasani

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1660 OF 2023

Hind Rectifiers Limited and Others

...Petitioners

Vs.

Engineering Mazdoor Sabha and Others

...Respondents

Mr. J. P. Cama Senior Counsel a/w Mr. Naushad Engineer,
a/w Praneeta Ragsi, Mr. Ankit Pal i/b AZB and Partners, for
Petitioners.

Mr. A. Shaikh, Senior Counsel i/b Mr. G. Yadav, for
Respondent No. 1.

Mr. Milind More, Additional G.P/Respondent No. 2.

CORAM:- N. J. JAMADAR, J.

DATED:- 10th AUGUST, 2023

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The challenge in this Petition is to an order dated 31st March, 2023, passed by the learned Member Industrial Court at Mumbai, on an application for interim relief (Exhibit-U2) taken out by the respondent No. 1 - Union in a complaint of unfair labour practice being Complaint (ULP) No. 52 of 2023, under

Item- 5 of Schedule-II of Items 9 and 10 of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“the Act, 1971”).

3) By the said order, the learned Member, Industrial Court restrained the petitioner from giving effect to the letter of intended closure dated 2nd February, 2023, and from shifting any plant machinery and raw material from Bhandup plant to any other location situated outside Bhandup plant/premises and also directed the employer to provide normal and regular work to the concerned workmen at Bhandup plant.

4) During the pendency of the Petition, an affidavit-in-reply came to be filed on behalf of the petitioner indicating the onerous situation, which the petitioner was made to encounter on account of the restraint on removal of the raw material.

5) In paragraph No. 9 of the additional affidavit, the petitioner adverted to the raw material, which was required to be shifted out of Bhandup plant in order to service the Railways.

6) An affidavit-in-reply came to be filed on behalf of the respondent No. 1-Union. It was, *inter alia*, contended that the respondent No. 1 was not averse to the shifting of the raw material provided the inventory of the raw material is prepared

and it is shifted in presence of two representatives of the respondent No. 1- Union.

7) Mr. Cama, the learned Senior Counsel for the petitioner, on instructions, made a statement that during the pendency of the complaint, the petitioner will provide work to the workmen at the Bhandup plant.

8) In view of the aforesaid affidavits, statement, and the exigency of the situation, which arises on account of restraint on removal of the raw material operating to prejudice of the petitioner No. 1- Company, with the consent of the parties, the Petition is disposed by modifying the impugned order to the extent it restrains the petitioner-employer from shifting the raw material from Bhandup plant.

9) Resultantly, the impugned order to the extent it restrains the petitioner-employer from shifting the raw material from Bhandup plant to any other location stands set aside subject to the following conditions:-

i) an inventory of the raw material to be shifted out of the Bhandup plant be prepared;

ii) the raw material be shifted from the Bhandup plant in the presence of two representatives of the respondent No. 1 – Union and;

iii) a copy of the inventory of the raw material shifted from the Bhandup plant be furnished to the respondent No. 1- Union.

10) The statement made by Mr. Cama, on behalf of the petitioner, is accepted.

11) In any event, the rest of the directions in the impugned order including the directions contained in Clause (4) that the employer shall provide normal and regular work to the concerned workmen at Bhandup plant, stands upheld.

12) The Petition stands disposed.

[N. J. JAMADAR, J.]