

MPBalekar

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

WRIT PETITION NO. 18897 OF 2024

Intercontinental Hotels
Groups (India) Pvt Ltd. and Anr. ... Petitioners
V/s.
Bhartiya Kamgar Sena Prafuliban
Society and Ors. ... Respondents

Mr. Rahul Nerlekar a/w Hardik Samkpat i/by Rahul
Nerlekar for the petitioners.

Adv. G.R. Naik, Uresh U. Sawant, Rutika Naik i/by M/s.
G.R. Naik & Co. for respondent No.1.

Mr. Lancy D'Souza a/w V.M. Parkar for respondent
Nos.2 to 4.

CORAM : AMIT BORKAR, J.

DATED : APRIL 9, 2026

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioners have assailed the impugned orders dated 1 July 2024 and 6 September 2024 passed by the Industrial Court in Complaint (ULP) No. 285 of 2023. By the said orders, the Industrial Court rejected the application preferred by the petitioners seeking deletion of their names from the array of respondents in the complaint, and further issued a direction requiring the petitioners to produce the agreement allegedly executed between them and respondent Nos. 2 to 4.
- 3.** It is evident from the record that the respondent–Union

instituted Complaint (ULP) No. 285 of 2023 against respondent No. 2 and the present petitioners, seeking implementation of service conditions, including payment of arrears of monthly wages to its members for the period commencing from March 2020 till the date of filing of the complaint. In the said proceedings, the present petitioners were impleaded as respondent Nos. 4 and 5.

4. During the pendency of the complaint, the petitioners moved an application contending, inter alia, that in the absence of any privity of contract between respondent Nos. 1 and 4, respondent No. 4 could not have been impleaded in the complaint. It was further contended that the Memorandum of Understanding executed between respondent Nos. 1 and 4 had not yet come into force, and that the ownership of both movable and immovable properties of respondent No. 1 continued to vest with respondent No. 1. Additionally, respondent Nos. 1 to 3, in their affidavit-in-reply, specifically averred in paragraphs (s) and (t) that even if the proposed business arrangement were to be implemented, respondent No. 1 would continue to remain the owner of both the establishments as well as the employer of the members of the complainant-Union. It was further stated that the service conditions of the workmen would continue unaffected, and any change, if at all, would be effected strictly in accordance with law.

5. The petitioners contend that the direction issued by the Industrial Court amounts to a roving and fishing inquiry, which is impermissible in law in the absence of any established privity of contract between the complainant-Union and respondent No. 4. It is their specific case that the agreement in question had not come

into effect either on the date of filing of the application or even on the date of passing of the impugned order dated 6 September 2024. In such circumstances, according to the petitioners, no direction could have been issued for production of an agreement which had not yet become operative.

6. Per contra, the learned advocate appearing on behalf of the complainant–Union submits that the Union has no knowledge of the precise nature and terms of the arrangement entered into between respondent Nos. 1 and 4. It is urged that the impleadment of respondent Nos. 4 and 5 was necessitated to safeguard the interests of the members of the Union, so as to ensure that their rights are not adversely affected by any undisclosed or clandestine arrangement. It is further contended that only upon production of the said agreement would the true nature of the transaction come to light, and therefore, the Industrial Court has rightly directed respondent Nos. 4 and 5 to produce the Hotel Management Agreement dated 27 September 2023.

7. Having heard the learned advocate appearing for the respective parties, it appears that the core dispute in the present matter is not based on any existing violation, but mainly arises from an apprehension expressed on behalf of the respondent–Union. The Union is expressing a fear that the service conditions of its members may get adversely affected due to some alleged undisclosed or not clearly known arrangement between the employer and respondent No. 4. This Court finds that such apprehension is based more on possibility than on presently established facts. At the same time, such concern cannot be

ignored entirely, since service conditions of workmen are matters of serious consequence. In this background, it becomes necessary to examine the stand taken by respondent Nos. 1 to 3 on oath. In paragraph Nos. (s) and (t) of their affidavit, respondent Nos. 1 to 3 have clearly stated that even if the new business arrangement comes into operation, respondent No. 1 shall continue to remain the owner of both establishments and the employer of the members of the complainant-Union. It is also stated that the service conditions of the workmen shall continue and any change, if at all, shall be only in accordance with law. These statements are not vague or uncertain. They are categorical in nature and are made on oath before the Court. Therefore, such statements carry weight and cannot be brushed aside lightly. In absence of any material to doubt their correctness at this stage, the Court is required to give due consideration to such statements.

8. In my considered opinion, when the aforesaid statements made in paragraph Nos. (s) and (t) are read together with the stand taken by respondent No. 4 in its reply as well as in the application, a clear position emerges. Respondent No. 4 has also stated that the agreement or arrangement entered into between respondent Nos. 1 and 4 has not yet come into force. It is further indicated that respondent No. 1 shall continue to be the employer of the members of the complainant-Union, and there shall be no change in service conditions unless the same is carried out by following due process of law. When these aspects are taken together, it appears that the very basis on which respondent Nos. 4 and 5 were sought to be impleaded, and the further direction was

issued to produce the agreement, stands sufficiently addressed. The Court cannot proceed merely on suspicion or on a general apprehension without there being some material placed on record to show that the arrangement in question has caused or is likely to cause prejudice to the legal rights of the workmen. In absence of such material, directing production of agreement would amount to entering into a roving inquiry. Such inquiry is not contemplated unless there is some foundation laid by credible material. The Court is not expected to examine every internal arrangement between parties unless it directly affects legal rights which are shown prima facie to be under threat.

9. In my view, the statements made in paragraph Nos. (s) and (t) of the reply filed by respondent No. 1 operate as a sufficient safeguard at this stage to protect the rights and service conditions of the members of the complainant-Union. The Court cannot assume that these statements will not be honoured, particularly when they are made on oath. At the same time, it is necessary to clarify that the protection of rights of workmen is a continuing concern. Therefore, if at any future point of time it comes to the notice of the complainant-Union that any arrangement between the employer and any third party has actually resulted in, or is likely to result in, adverse effect on the service conditions of its members, it shall always be open to the Union to take recourse to appropriate legal remedies as permissible in law. The present stage, however, does not disclose any such concrete material. In these circumstances, the impugned order passed by the Industrial Court, directing continuation of respondent Nos. 4 and 5 and

production of the agreement, cannot be sustained in law and deserves to be set aside.

10. Rule is made absolute in terms of prayer clauses (a) to (c).

11. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)