

**BEFORE SHRI S.V. SURYAWANSHI, MEMBER,
INDUSTRIAL COURT AT MUMBAI.**

COMPLAINT (ULP) NO.48 OF 2020

CNR NO : MHICO1-000130-2020

Maharashtra Employees Union

...Complainant

Versus

M/s. Sahara India Commercial
Corporation Limited & 6 others

...Respondents

Appearances : Shri **F.R. Mishra**, Ld. Advocate for the Complainant
Shri **Mahesh Shukla**, Ld. Advocate for the Respondents

COMMON ORDER BELOW EXHIBITS CC-1, CC-2, C-3 & CE-1

(Passed on 31/03/2021)

1. The respondents no.1, 2, 4 and 5 have filed these applications for deletion of their names from the present proceeding. As per respondents no.1 and 3 the concerned workers are not their employees. There is no propriety in making the respondents no.1 and 2 as parties to the proceeding. The case pertains to the transfer of the concerned employees. The reliefs are sought against the concerned employer of the employees. The respondents no.1 and 2 have unnecessarily joined as party to the present proceeding. They are not at all concerned with the subject matter of the dispute. Therefore, they be deleted from the present proceeding.

2. As per respondents no.4 and 5 they are not an employee nor the Director, Managing Director, Chairman of the respondents no.1, 2 and 3. Even in the pleadings also there are no specific acquisitions against the respondents no.4 and 5. The complainant has not pleaded as to how the respondents no.4 and 5 are connected

with the present complaint. The respondents are unnecessarily arrayed as a party to the present proceeding. With these and other averments the respondents no.4 and 5 stated that their names also be deleted from the present proceeding.

3. The complainant union has filed reply below Exh.U-18 wherein the complainant union has denied adverse allegations made by the respondents no.4 and 5. As per complainant, the complainant union has specifically averred in the complaint that the respondent Company is controlled and administered by respondent no.4 and he is Chairman & Managing Director of the Company. It is also specifically pleaded in the complaint that the respondent no.5 is Executive Director of the Company and the respondents no.4 to 6 are looking after the day to day affairs of the Company and having actual control including the personnel and administrative affairs of the Company. The complainant union is having adequate evidence to prove these contentions. The respondents are deliberately prolonging the hearing of the present complaint. With this and other averments the complainant submitted that the applications filed by the respondents be rejected.

4. Heard both Ld. Advocates, perused the record and proceeding. The main contention of the respondents no.4 and 5 is that there are no averments/allegations against these respondents. The respondents have relied upon the Regulation 100(3) of the Industrial Court Regulation, 1974 which reads as under:

"every person or union who it is alleged is guilty of any unfair labour practice, shall be pleaded in the complaint. The complaint must specifically and

separately disclose the unfair labour practice in regards to the particular person or union and the date of occurrence of that unfair labour practice".

5. In the background of above provision when I perused the copy of the complaint I find specific averment in the complaint against all the respondents in paras 3(b) and 3(c) wherein the complainant has stated that the respondent no.1 is a Limited Company registered under the Companies Act, 1956 and is having its office address at Goregaon and popularly known as Sahara India Parivar and is controlled and administrated by respondent no.4. The company is engaged in the business of recreation, entertainment, amusement, television, news, running hotels for lodging and boarding and collection of money from outside parties and lend money to the parties (chit fund). The respondent no.1 Company is having various units which have been named as Sahara India TV Network, Sahara India Financial Corporation Limited, Sahara India Limited and there are functional and financial integrality amongst the units. There is common control, supervision and management and the employees have to work as per the instruction and guidelines in all the units of the Company. The respondents no.5 and 6 are the Executive Directors and Assistant General Manager respectively and Mr. Ehtiram Ali is purported to be the Manager HR of the respondent no.1 Company. It has prima facie come on record during hearing of interim relief application that the workers are transferred from one unit to another and from one Company to another Company. It is the contention of the respondents in the written statement that there is specific contention for transfer of the concerned employees from one sister concern Company to any of the

group Companies. Many of the concerned employees came from different Companies, firms and establishments. As per Ld. Advocate for respondents 'Sahara India Parivar' is not a separate legal entity. Even then transfer orders are issued under the letterhead of 'Sahara India Parivar'. Copy is marked to respondent no.1, second copy is sent to Corporate Officer, Delhi. Copy of transfer orders of Mr. Sawant & Shirke is marked to 'Sahara India, Corporate Office. Respondents cannot take benefit of their own acts of creating confusion in the employees about correct employer and by establishing several companies with identical names with minor changes and controlling the same from same place/address, treating those companies as part of a 'Parivar'. By issuing different letters under different letterheads with different signatories and by transferring the workers from one concern to the other. Thus, it cannot be said that there are no averment in the complaint against the respondents no.1, 2, 4 and 5. The complainant union has challenged the transfers. There are specific allegation of unfair labour practice against the respondents. The Regulation 100(3) of the Industrial Court Regulation, 1974 provides that the complaint must specifically and separately disclose the unfair labour practice in regard to the particular person or union and the date of occurrence of that unfair labour practice. It is the rule of pleadings that the plaint should contain brief statement of facts. Moreover, it cannot be ignored that the rules are the handmaid of justice. It is not there that there are no allegations at all against these respondents. It is for the complainant to prove those allegations. If at all the complainant fails the complaint will be dismissed. When there are allegations against these respondents, these respondents deserves an opportunity to

defend themselves. Deleting the respondents at initial stage itself may amount to dismissal of the complaint against those respondents which cannot be done. Thus, applications filed by the respondents no.1, 2, 4 and 5 are liable to be rejected. Hence, I pass the following order.

ORDER

Applications Exh.CC-1, CC-2, C-3 and CE-1 stands rejected.

Dated : 31/03/2021
Rry/-31.3

(S.V. Suryawanshi)
Member,
Industrial Court, Mumbai.