

[VIA VIDEO-CONFERENCING]

BEFORE SHRI. S. D. SURYAWANSHI, MEMBER,

IN THE INDUSTRIAL COURT AT MUMBAI

COMPLAINT (ULP) NO. 96 OF 2020

Krantikari Kamgar Union,
180 C, First Floor, Dharavi Koliwada,
J. J. Keni Lane, Dharavi Road,
Mumbai : 400 017.

... Complainant

VERSUS

1. Mahanagar Media Networks Pvt. Ltd.
502, Omega House, Hiranandani Garden,
Powai, Mumbai : 400 076 & Others.... ... Respondents

Appearances :-

Ld. Advocate Shri.Arvind Tapole for Complainant.
Ex-parte against the Respondents.

:- EX-PARTE AD-INTERIM ORDER BELOW EXH.U-2 :-

(Passed on 17th July 2020)

01) The Complainant Union alleging unfair labour practices on and from 18/03/2020 against the three Respondents has been filed present Complaint. It appears that, said Complaint is filed on 03/07/2020 to claim certain reliefs and protection of employment in respect of 57 member-employees.

02) Today, at 12.30 p.m., heard the Learned Advocate Shri.Arvind Tapole for the Complainant by way of Video-Conferencing. Before hearing by Video-Conferencing, today's

schedule was fixed sending e-mail to the Complainant and the Respondents. In spite of that, the Respondent failed to participate in the Video-Conferencing hearing.

03) Heard the Learned Advocate Shri.Arvind Tapole. Shri.Tapole submitted that, the Respondent No.1 is the Publisher of a chain of newspaper titled Hamara Mahangar. To carry out its activities, the Respondent has employed total 71 employees. To represent the employees, the Complainant Union formed in the premises of the Respondent No.1 Company and formation of Union was communicated to the Respondent vide letter dated 29/07/2019. Thereafter, vide letter dated 16th January 2020, the Complainant addressed letter and demanded interim relief, arrears and other benefits under the Majetia Wage Board Award. The Complainant Union also approached to the Office of Assistant Commissioner of Labour, Mumbai (East) and thereafter, said Office issued notice of hearing scheduled on 30/03/2020 and 17/04/2020. Since the Complainant to get arrears of Majetia Award, took efforts, but the Respondent not willing to implement the Majetia Award. Finally, the Respondent only to avoid implementation of Majetia Award, tried to show the closure of its Undertaking. To misguide the employees and all other Authorities, the Respondent No.1 arbitrarily published notice dated 18th March 2020 for closing down its activities.

04) The Learned Advocate Shri.Arvind Tapole further submitted that, on 18/03/2020, all the concerned employees

were on duty and about 4.30 p.m., notice was published and removed them from the premises of the Respondent. Since 19/03/2020, the employees are not allowed to resume their duties. Further, till date, the Respondent has not deposited the closure compensation, gratuity amount and other legal dues in the bank account of the concerned employees. Further, the Respondent has not issued individually closure notice to each of the employee which is mandatory as per the provisions of the Industrial Disputes Act, 1947. The Respondent chose another way to get separate the employees and talking to some of the employees succeeded to obtain their resignation. As on date, 17 employees' resignation collected by the Respondent and thereafter, again employed them as a fresh employee. This fact clearly suggest that, the Respondent has not closed down its Undertaking, but only to avoid implementation of Majetia Award, arbitrarily issued notice of closure without complying the provisions of the Act. Hence, at this stage, the Complainant is entitled for ad-interim relief.

05) After going through the entire proceeding, prima facie it is observed that, the Respondent is a Newspaper Industry and therefore, Majetia Award is applicable to the Respondent No.1. No doubt, the Respondent is not employing 100 employees, therefore, Chapter V-B of the Industrial Disputes Act, 1947 may not be applicable. But, it does not mean that, the Respondent Undertaking is having right to close down its activity without

following due procedure of law. It appears that, as on date, though the Respondent issued or published closure notice, but has not paid gratuity amount, closure compensation and other legal dues of the employees. Further, it appears that, inspite of collecting resignations from the 17 employees, the Respondent again re-employed these resigned employees. This fact suggest that, as on date also, the Respondent is functioning and closure notice was published for some motive.

06) As far as benefits of Majetia Award is concerned, the letter dated 16th January 2020, suggest that, the Complainant raised demand for an amount of Rs.74245940/-76/- against all the employees and therefore, the Office of the Labour Commissioner tried to intervene in the dispute and has issued hearing notice dated 09th March 2020 in respect of Application WJA No.06 of 2020 and 34 of 2020. The correspondence between the parties appears prior to April-2020 and before proceeding with the subject matter of dispute, the Respondent published closure notice on dated 18th March 2020. If the Respondent was willing to close down its activities, then till date the Respondent was expected to settle the full and final dues of all the employees. Further, it appears that, the Respondent has not issued individual notices to the employees. Further, question arise if the Respondent chose to close down its activities, then why the Respondents are employing resigned employees again. So, entire subject matter is required to be decided on its own merit after

giving sufficient opportunity of the hearing to the Respondents. But, till date, this Court found necessary to grant ex-parte ad-interim order to protect the rights of the concerned employees. If, at this stage, ad-interim order is passed, no any prejudice or irreparable loss shall be caused to the Respondents. Hence, this Court proceed to pass following order :-

ORDER

- i) The Respondent Nos. 1 to 3 are hereby directed not to terminate the services of 57 employees who are the members of the Complainant Union whose names are given in Annexure-A to the Complaint without following due process of law, till next date.
- ii) The Respondent Nos. 1 to 3 are hereby directed to temporarily allow the concerned 57 employees to resume their duties following Maharashtra Government Notification issued from time to time during the period of lock-down.
- iii) Issue notices to the Respondents returnable on 19th August 2020.

Mumbai
Date :- 17/07/2020.
SRS/-

Sd/-
(S. D. Suryawanshi)
Member
Industrial Court, Mumbai.