

**BEFORE SHRI JEETENDRA L. GANDHI, MEMBER,
INDUSTRIAL COURT, MUMBAI**

**COMPLAINT (ULP)No.175 of 2021.
(CNR No. MH1C01-000438-2021)**

1. Arun Madhukar Pawar,
Vatsalabai Naik Nagar, CST Road,
Chembur, Mumbai-400 071.
2. Sayed Ahmed Nazir Ahmed Khan,
Din Bandhu Nagar, Salt Pan Road,
Wadala, Mumbai-400 037.
3. Rajiv Babulal Chaturvedi,
Din Bandhu Nagar, Salt Pan Road,
Wadala, Mumbai-400 037. ...Complainants.

Versus

1. M/s. Highland Solution LLP.
 2. The Director, M/s. Highland Solution LLP.
 3. The Manager, M/s. Highland Solution LLP.
- All at**:-At CRWC Godown, Jogeshwari Railways
Goods Shed, At: Jogeshwari(East),
Mumbai-400 063.
4. The Railway Goods Clearing and
Forwarding Establishments Labour Board,
Mumbai, 84A, Broach Sadan, Devji
Ratanishi Marg, Dana Bunder,
Masjid Rly. Station (East),
Mumbai-400 009. ...Respondents.

AND

Shri Ganesh Shankar Sawant,
Mukadam of Toli No.M/523,
Having address at-
Delivery.com Pvt. Ltd.
Railside Warehouse Complex,
Ram Mandir Road, Jogeshwari(E),
Mumbai-400 023. ...Applicant.
(Proposed Respondent No.8)

O R D E R (Below Exhibit UA-10)
(15.02.2022)

01. This is an Application filed by Shri Ganesh Shankar Sawant(hereinafter, referred to as "***the Applicant***"), praying for impleading him as a party-Respondent No.8 in the present Complaint.

02. In short, it is the case of the Applicant that he is the Mukadam of Toli No.M/523 which is registered with the Metal and Paper Markets & Shops Labor Board, Gr. Mumbai and his toli consists of 19 workers and the Grocery Markets and Shops Board has allotted their toli of workers to M/s. Delivery.Com Pvt. Ltd. The said registered employer has a work of different nature such as grains and cereals, metal and paper, etc., and for the work of metal and paper nature, the Applicant toli is working for the board. It is further contended that near the railway goods shed, the Central Railside Warehousing Company Ltd. (CRWC) constructed a new railway goods shed at Jogeshwari and there are several establishments functioning in the said area. The said M/s. CRWC Ltd., has leased out its premises to Respondent No.1 and Respondent No.1, in turn, rented

out its premises to number of other establishments and one such establishment is M/s. Delivery.com Pvt. Ltd., which is functioning in the said area since September 2020. The Toli No.M/523 is doing the work of loading, unloading and other mathadi work with the said registered employer. It is further contended that the workers of Toli No.96D and other toli workers are attempting to steal the work of the Applicant by seeking Orders from this Court behind the back of the Applicants and any Order that would be passed in favour of the Complainant toli workers would directly affect the Applicants and hence the presence of the Applicant is absolutely necessary and without their presence, the issue involved in the present matter cannot be effectually and completely be adjudicated upon. Further the cause of action will not be changed if the Applicant is impleaded as a party to the Complaint. It is, therefore, it is prayed that the Applicant be impleaded as a necessary party.

03. The Complainants by filing their Reply at Exhibit U-12 have resisted the present Application. It is

contended that the present Complaint is filed alleging certain unfair labour practice being engaged in by the Respondents. Complainant No.1 is the Mukadam of Toli No.96D having around 163 registered workers and they are registered with the Railway Goods Clearing and Forwarding Establishments Labour Board, Mumbai. It is further contended that the Complainants alongwith other Tolis i.e. 30 and 156 have been working with the Respondent No.1 at the site of CRWC as per Order dated 03.08.2021 passed by the Board, in which the Board has clearly ordered that the work will be equally distributed to all the Tolis, but the workers of other tolis i.e. M/523, M/463, 710 and M/476 are deliberately trying to steal the work of Toli No.96D, 30 and 156. It is contended that the Applicant is no way concerned with the work carried out by the workmen of Toli of the Complainants and even otherwise the Applicants were not the party to the proceedings which took place before the Board and in the Order dated 03.08.2021. It is contended that the Applicant has himself admitted that they are working with one M/s. Delivery.Com Pvt.

Ltd., which is also not a party to the present Complaint and therefore there is no question of stealing any work of the Applicant, as alleged. Applicant is also not a registered worker with Respondent No.4 Board, but is registered with the Metal Board, who is also not a party to the present Complaint. It is contended that Applicant has filed Complaint (ULP)No. 142 of 2020, wherein ad-interim Order dated 12.11.2020 is passed directing the Respondents to engage the workers from Toli No.M/463 and M/523 only. In the said Complaint, the Applicant has not uttered any single word against the Complainants or against the Respondents, nor there is any prayer regarding stealing of work by the Complainants and as such it is clear that the Applicant has not come up with clean hands and is trying to just delay the matter. It is further contended that no Board has allotted Toli No.M/523 to the Respondent No.1 to carry out the work of Respondent No.1 i.e. loading and unloading the cement bags and in fact Toli No.M/523 is not even registered with the Railway Goods Clearing and Forwarding Establishments Labour Board, Mumbai.

No case is made out by the Applicant nor is he concerned with the cause being taken up by the Complainants. Besides denying each and every averments and allegations made by the Applicant, the Complainants have given para-wise reply and lastly prayed that the Application be rejected.

04. Heard Ld. Counsel Shri Ramdas Gajinkar for the Applicant-Proposed Respondent No.8 and Ld. Counsel Shri Sunil Bhosale for the Complainants.

05. In view of the rival submissions of the parties, following points arise for my determination. I have recorded my findings thereon. The reasons are given below.

<u>POINTS</u>	<u>FINDINGS</u>
1) Whether the Applicant has made out a case for impleadment?	In the affirmative.
2) What Order?	Application is allowed.

REASONS

06. Perused the Complaint as well as the present Application. The Complainants have filed this Complaint alleging unfair labour practice under items 9

and 10 of Sch.IV of the MRTU & PULP Act, 1971. It is alleged by the Complainants that the Respondents are employing some other persons instead of the Complainants who are registered with the Respondent No.4 Board and in whose favour the Order is passed for allotting work to them. Accordingly, relief has been sought by the Complainants seeking direction to the Respondent Nos.1 to 3 to provide the work to the workers to the Toli of the Complainants.

07. On the other hand, the Applicant by moving the present Application has contended that he is the Mukadam of Toli No.M/523 which is registered with the Metal and Paper Markets & Shops Board and they have been allotted work at M/s. Delivery.Com Pvt. Ltd., which is functioning in the premises of M/s. CRWC Ltd. It is the contention of the Applicant that the workers of Toli No.96D and other toli workers are attempting to steal the work of the Applicant by seeking Orders. It is contended that any Order passed would affect the rights of the workers who are registered with the Toli of the Applicant and hence they are necessary parties to

the present Complaint.

08. Considering the rival pleadings and arguments advanced by both the parties, it apparently becomes clear that the parties are agitating the cause of non-providing the work of loading/unloading which has been allotted to them by the respective Boards. The issue before this Court revolves round this aspect. The rights of the parties are to be adjudicated. Since the Applicant is also claiming his right and further is apprehending that any Order passed in favour of the Complainant would affect his right and interest of his registered workers, I am of the opinion that the Applicant being a necessary party, is required to be impleaded as a party-Respondent No.8. By impleading the Applicant, no prejudice would be caused to the Complainants. Accordingly, I answer Point No.1 in the **Affirmative** and proceed to pass the following Order:-

ORDER

- i) The Application at Exhibit UA-10 is allowed.*
- ii) The Applicant-Shri Ganesh Shankar*

*Sawant be impleaded as Respondent
No.8 in the Complaint.*

*lii) Parties to carry out the necessary
amendment.*

*iv) Copy of the Complaint and Reply
filed be given to the Applicant by the
respective parties.*

Date:-15.02.2022.

*(JEETENDRA L. GANDHI)
Member,
Industrial Court, Mumbai*

Skn/-