

**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

Shivgarjana Mathadi Transport and
General Kamgar Sena,
Ansar Seva society, Near Italian Textile,
Ambedkar Chowk, Goregaon Mulund
Link Road, Mumbai-400 063. ...Applicant.
(Proposed Respondent No.9)

O R D E R (Below Exhibit UB-1)
(15.02.2022)

01. This is an Application filed by Shivgarajana Mathadi Transport and General Kamgar Sena(hereinafter, referred to as "***the Applicant***), praying for impleading it as a party-Respondent No.9 in the present Complaint.

02. In short, it is the case of the Applicant that it is a trade union registered under the Trade Unions Act and is representing the 123 mathadi workers, belonging to Toli No.30 and 19 mathadi workers of Toli No.156. Both these tolis were allotted by Respondent No.4 Board for the purpose of doing loading, offloading, staking and all mathadi related work at the Jogeshwari Railway yard and they had been peacefully doing the said mathadi related work since the year 1976. It is contended that the Toli No.96D of which the Complainants are claiming to be members was actually allotted the work pertaining to Cement at Wadi Bunder Railway Yard. After the construction of new shed by Central Rail Warehousing Company Ltd. (CRWC), many other establishments have been brought in at the

instance of Respondent No.1. It is contented that the mathadi workers represented by the Applicant Union have the exclusive right to work even at that new site. However, attempts are made by the vested interest to disturb the work done by the members of the Union and a letter in that regard was addressed to Respondent No.4. In spite of having complete knowledge about this fact, the Complainants have not impleaded the aforesaid two tolis bearing Nos.30 and 156 and are seeking relief against the Respondents which amount to contracting out the work done by them.. It is contended that 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 have endorsed their say on the Application itself and left the issue to the discretion of this Court.

04. Heard Ld. Counsel Shri A.S. Peerzada for the Applicant-Proposed Respondent No.9 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 it is representing the workers of Toli Nos.30 and 156 and both these tolis are allotted by the Respondent No.4 Board for the purpose of doing loading, offloading, staking and all mathadi related work at the Jogeshwari Railway Yard. 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 Tolis which are represented by 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.9. 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 UB-1 is allowed.*
- ii) The Applicant-Shivgarjana Mathadi Transport and General Kamgar Sena be*

*impleaded as Respondent No.9 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/-