

Exh.O-

IN THE INDUSTRIAL COURT NO.1, MAHARASHTRA
AT KOLHAPUR

Complaint (ULP)No. 159/2021
(CNR No.MHIC090003622021)

1. Municipal Transport Workers Union .. Complainants
2. Rajekhan Gajabar Mullani

V/s

Kolhapur Municipal Transport, Kolhapur .. Respondent

: ORDER BELOW EXH. C-5 :
(Dated :- 10.10.2022)

The Respondent has filed present application for direction to Complainant towards production of documents under Chapter 7, Sec. 30(3)(c) of the MRTU & PULP Act, 1971. It is submitted that the Respondent has taken strong objection to the locus-standi of the signatories of the present proceeding on behalf of Complainant Union. It has come to notice that Mr. Shashikant Rajaram Patil, claiming to be the President/Chairman of the Complainant Union, has filed caveats before the Registrar, Trade Unions, Maharashtra on 25.05.2022 and also Ld. Labour Court, Kolhapur on 08.06.2022. It is therefore, urged to direct the Complainant Union to produce copies of these two caveats for

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proper adjudication of the issue of locus-standi.

2. The application is opposed by the Complainant Union by filing say vide Exh.U-20. It is submitted that no relevancy pointed out by the Respondent. While seeking documents, no reason is mentioned. The said caveats are not necessary to decide the controversy in question. It is therefore urged to reject the application.

3. Ld. Counsel for the Respondent argued that the said Mr. Shashikant Patil has no locus to file the complaints. The Hon'ble Bombay High Court was pleased to stay further proceedings in Ref. (ICTU)No. 01/2021. Under such circumstances, it is argued to allow the application.

4. Ld. Counsel for Complainant Union argued that the subject matter of Ref.(ICTU)No. 01/2021 and the present complaint are distinct. Till today no dispute is raised about the office bearers of the Complainant Union. The Hon'ble Bombay High Court has not given any finding on the locus-standi of the office bearers of the Complainant Union.

5. Heard the Ld. Counsels at length and perused the

papers. The Respondent is seeking production of caveats filed by the Complainant Union before the Ld. Labour Court and Registrar, Trade Unions, Maharashtra. Although the Complainant Union has not denied filing of such caveats, it is for the Respondent to demonstrate how the said documents are relevant for proper adjudication of the complaint.

The Respondent has already raised an issue of locus-standi through its' earlier application Exh.C-4. This Court while deciding the said application on 29.03.2022 has given finding that requisite issues shall be framed at the relevant stage of proceeding and such issues shall be answered along with other issues. Therefore, this Court finds that there is no necessity of production of documents as claimed by the Respondent through present application.

6. The Hon'ble Bombay High Court in the matter of 20th Century Fox Corp. vs. F. H. Lala & Ors. 1974 II LLJ 156 (Bombay) was pleased to observe as under :

12. Now, in our view, it is settled position in law that a party to any litigation cannot be permitted to embark on a fishing or roving inquiry in the hope that some material will come to hand on the basis of which he can set out his case. We do not wish to

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say that in a proper case, after the necessary material is on record, the Tribunal cannot order production of relevant documents which would be necessary for the purpose of the adjudication. But before that can be done, it would be the duty of the party asking for production of documents to make out a case why it would be necessary for certain documents to be produced.

13. In the instant case, it is obvious from a reading of the application for production of documents that apart from a vague and a somewhat peremptory statement that in the opinion of the union it would be necessary that the documents referred to be produced, there is no material on which any Tribunal could validly order production of the documents referred to . What is perhaps more illuminating is that the union has stated that the production of these documents will “throw sufficient light on the various aspects of the issues involved”. Mr. Sowani also in his able arguments sought to persuade us that the company should provide some enlightenment to the union so that a proper case was made. We are afraid that production of documents and inspection thereof cannot be permitted for such a purpose.

Therefore, the application is devoid of merits and is liable to be rejected. Hence, the following order is passed :

: ORDER :

The application is rejected.

Kolhapur.

(S. S. Khandekar)

Member,

Date : 10.10.2022.

Industrial Court No.1, Kolhapur.

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