

BEFORE MEMBER, INDUSTRIAL COURT, SATARA.

Complaint(ULP)No.24 of 2017

Engineering Kamgar Sangh, Pune . Complainant

V/s.

Godrej & Boyce Mfg. Co. Ltd.
and Others. . Respondents**ORDER BELOW EXH.C-3B**

(15.12.2017)

Respondent No.2 has filed application stating that respondent No.2 is recognized union u/s 3(13) of MRTU & PULP Act. Therefore the complainant has no locus-standi to file present proceeding. Complainant union has prepared bogus record for showing the membership in the respondent company. Respondent No.2 union has already taken the cognizance of the said illegal and forceful acts on the part of the complainant and it has already informed these illegal acts on the part of the complainant to the concerned authorities by making the correspondence dt.24-7-2017 to the respondent No.1 company and on 1-8-2017 to the Shirval Police Station and other concerned authorities and on 11-8-2017 to the Bar Council of Maharashtra and Goa. It is submitted that

being the recognized union in the, an agreement is already arrived at between the respondent No.1 undertaking and the respondent No.2 union on 22-8-2017. Respondent No.2 is having the larger membership in the respondent no.1 undertaking. Considering this factual aspect, the complainant union has no right to file the present complaint and secondly as an agreement has already been arrived at between the respondent No.1 and respondent No.2, the present complaint has become infructuous. Lastly prayed to frame the preliminary issues.

2. Say of the other side is given on the application Exh.C-3B. Said application is not legal and proper. The contents of the application are not admitted to this complainant. This application is nothing but delay tactics of the respondent No.2. The stage of issue will to come. This application is premature application. The complaint filed by the complainant is legal and proper. It is maintainable in the eyes of law. The respondent has engaged in unfair labour practice. Lastly prayed to reject the application.

3. Heard both sides. Learned counsel for the complainant has argued that wording of Section 28 speaks that where any person has engaged in or engaging in any unfair labour practice, then any union or any employee or any employer or any Investigating Officer may, within ninety days of the occurrence of such unfair labour practice, file a complaint before the Court competent to deal with such complaint. Learned counsel has further submitted that word 'any union' is used in this provision. It means union either may be recognized or unrecognized has filed the complaint. Therefore the application is not proper and prayed that there is no need to frame preliminary issue.

4. Learned counsel for the respondent No.1 has submitted that the several members have made representation that their resignation is obtained by force and submitted that all the necessary documents are on record. However no name is mentioned in the concerned document that who has applied force while obtaining the resignation. The respondent No.2 is also absent when called out repeatedly. Learned

counsel for the respondent No.2 is absent when called out repeatedly. Uttam Jadhav for respondent No.2 is present. He submitted that his counsel is not ready to come before the court. It was asked President, Lawkim Kamgar Sanghatana to inform to remain present in the Court. As the learned counsel for the respondent No.2 remained absent and Uttam Jadhav, President of respondent No.2 union has not submitted anything, therefore it is necessary to peruse the application and decide the same.

5. Considering the arguments advanced by learned counsel for the complainant that in view of the provision of Section 28 any union can file complaint therefore it is maintainable before this court. Hence application deserves to be dismissed. With this, I pass the following order.

ORDER

Application stands dismissed.

Sd/-

SATARA.

(Dr.Yeshwant Chaware)

Member,

Date: 15.12.2017.

Industrial Court, Satara.