

MHIC120000922021



IN THE COURT OF MEMBER, INDUSTRIAL COURT, PUNE.

Presided Over by Shri. S. G. Dabadgaonkar

Complaint ULP./38/2021

Hind Kamgar Sanghatana
Address: Nalawade Building,
Near Maruti Temple, Kharalwadi,
Pimpri, Pune 18

.... Complainant

VERSUS

M/s Ranvik Auto Components Pvt. Ltd.
Address: S-114/115, MIDC, Bhosari,
Pimpri-Chinchwad, Pune 411026

.... Respondents

and Ors.

Advocate for complainant union : Shri. J. R. Pawar.
Advocate for respondents : Shri. A.K. Gupte and
Shri. Bomble-Deshmukh.

ORDER ON INTERIM RELIEF APPLICATION (EXH.U-2)
(Delivered on 29-09-2022.)

1) Complainant is a registered Trade Union functioning in respondent No.1 company whose employees listed in Annexure A to the complaint are its employers. Respondent No. 1 is a private limited company engaging in business of Accessories of Motor Vehicles and Engines. Respondents No. 2 and 3 are its directors. It

is the case of the Union that respondents, without following due process of Law, terminated services of workers concerned with effect from 02/02/2010. Workers raised dispute before the Assistant Labour Commissioner of Pune. Finally, the matters were finally adjudicated before the Labour Court No.3, Pune *vide* separate Awards in 18 reference matters. It was the defence of the company in said matters that the workers were not its employees, but employees of contractor. The Ld. Presiding Officer, Labour Court No.3 was pleased to pass Award in all matters on 09/10/2018 by answering the reference in the affirmative. Directions were issued against the respondent No.1 (First Party No.1 in said matters) to reinstate the second party workers with 100 % back wages and consequential benefits. The said Awards were notified on 26/12/2018 and therefore, became enforceable from 27/01/2019.

2) It is further case of the Union that Respondents, in spite of request of workers concerned and Union, have avoided to implement the said Awards under the pretext of filing matter before the Bombay High Court. As per order dated 24.02.2020, Awards of the Labour Court, Pune have been confirmed by the Hon'ble Bombay High Court to the extent of relief of reinstatement of workers and matters were remanded for re-deciding question of back wages. Respondents have not reinstated these workers as ordered by the Hon'ble Bombay High Court. Hence, the present complaint of unfair labour practice under item 9 of Schedule IV of the Act with prayer to direct respondents to implement the Awards of Labour Court, Pune passed in 18 reference matters and for other reliefs.

3) separate interim relief application (Exh. U-2) is also moved by the complainant union with contention that it has made out a strong prima facie case against respondents. Balance of convenience is also in favour of the Union. No prejudice will cause to respondents if interim reliefs as prayed for are granted. On the other hand, if said reliefs are not granted, great hardship and irreparable loss will cause to the Union and its members. Therefore, it is prayed to direct respondents to allow workers to resume on duty and pay them their wages. It is also prayed to restrain respondents from removing plant and machinery. Its further prayer to direct respondents to deposit amount of back wages of workers concerned.

4) Respondents resisted the claim by filing written statement-cum-reply (Exh.C-3) and denied all the allegations of unfair labour practices. Awards passed by the Ld. Labour Court is not denied by respondents. However, it is contended that respondents have challenged these Awards before the Hon'ble Bombay High Court in which the Hon'ble High Court was pleased to direct the respondent No.1 to reinstate employees. However, order of granting back wages is set aside and matters have been remanded back to the Labour Court to determine the question of the back wages.

5) It is further case of respondents that though the High Court was pleased to directed reinstatement of workers concerned, but due to COVID-19 Pandemic, they could not be allowed to resume their duties till 14.07.2020. As such, they are not entitled to wages for the said period. Due want of business, it became difficult for respondents to continue manufacturing activity of the company. According to

respondents, they have closed manufacturing activity of respondent No.1 Company from 16/02/2021. All the employees have been paid with their legal dues on 22.07.2021. Action of closure is legal. Therefore, this complaint does not survive. Respondents have finally prayed to reject the interim relief application.

6) The Ld. Counsel Shri. J.R. Pawar for the complainant Union fairly conceded that he is pressing interim relief to the extent of relief No. 4 (a) which is restraining order about plant and machinery of respondent No.1. He pointed out that the Ld. Labour Court, Pune by its Awards dated 09/10/2018 set aside termination of employees concerned. The said Award came to be published on 26/12/2018 and company is bound to implement it from 27/01/2019. He further submitted that Writ Petition No. 7390 of 2019 with other 16 matters came to be decided by the Hon'ble Bombay High Court and vide order dated 24/02/2020 Awards of the Ld. Labour Court except back wages have been confirmed. He specifically submitted that respondents have failed to implement order of Awards of the Ld. Labour Court which is confirmed by the Hon'ble High Court till 13.07.2020. Therefore, workers concerned are entitled to wages for that period. If respondents would succeed in selling plant and machinery, rights of workers concerned will be frustrated. He, therefore, prayed to grant interim relief to the extent of restraining respondents from removing plant and machinery.

7) The Ld. Counsel Shri. Bomble-Deshmukh on the other hand submitted that the complainant Union has prayed for interim relief in respect of plant and machinery of respondent No.1. He submitted

that respondents have paid entire legal dues of workers concerned. He drew my attention towards documents filed with list Exh. C-7. He further submitted that the respondent No.1 leased its plant and machinery to other company as per Lease deed dated 29/09/2021. Therefore, respondents have no control over the property. As such, according to him, relief claimed in the interim relief application cannot be granted.

8) It is a settled proposition of law that jurisdiction to issue an order of interim relief under Section 30(2) of the MRTU & PULP Act comes into existence only upon prima facie findings of unfair labour practices. Keeping in mind aforesaid legal proposition, it is necessary to see whether the complainant has established strong prima facie case of unfair labour practices against respondents.

9) It is not in dispute that the Labour Court, Pune has passed as many as 18 Awards on 09/10/2018 and thereby directed respondent No.1 company (First Party No.1 in said reference matters) to reinstate the concerned workers in service with 100 % back wages. It is also on record that the said Awards were impugned before the Hon'ble Bombay High Court by filing Writ Petition No. 7390 of 2019 and other 16 matters. The Hon'ble Bombay High Court, *vide* its order dated 24/02/2020, maintained Awards of the Labour Court to the extent of reinstatement of second party workers with consequential benefits. However, order to the extent of granting back wages came to be set aside and the matters were remanded back to the Labour Court, Pune for deciding question of back wages afresh. It is also not in dispute that the Labour Court, thereafter, rejected relief of

back wages in all these 17 matters.

10) It is also a matter of record that Awards of Labour Court dated 09/10/2018 were published by the Labour Commissioner Authority on 26/12/2018. As such, as per the provisions of Section 17-A of the Industrial Disputes Act, these Awards became effective after expiry of 30 days of said publishing that is from 27/01/2019. It is on record that respondents have not implemented the said Awards for the reason that all these decisions were under challenge before the Hon'ble Bombay High Court.

11) It is required to mention here that respondents have not disputed that they have reinstated concerned employees from 14.07.2020 after the order of the Hon'ble Bombay High Court. Means, prima facie, it is established that even after the order of the Hon'ble Bombay High Court till 13.07.2020, Awards of the Ld. Labour Court, Pune have not been implemented by respondent No.1 Company.

12) The Ld. Advocate Shri. J. R. Pawar specifically contended that though Award to the extent of back wages is set aside, however, workers are entitled to get reinstatement from the date of Awards of Labour Court which is confirmed by the Hon'ble High Court or at least immediately from the date of order of the High Court. respondent No.1 company has implemented the Awards by reinstating these workers since 14/07/2020. Therefore, according to him respondents are liable to pay unpaid wages for the said period of 27/01/2019 to 13/07/2020, during which the respondent No.1 has

not implemented Awards as granted by the Labour Court.

13) I find prima facie substance in said contention. Admittedly, there was no stay granted by the Hon'ble Bombay High Court during the pendency of Writ Petition No. 7390 of 2019 and other 16 matters. As such, prima facie, the respondent No.1 was bound to implement Awards of the Ld. Labour Court after 27/01/2019 that is after lapse of 30 days of publication of Awards. Prima facie, therefore, workers concerned appear to be entitled to wages for the said period from respondent No.1 Company.

14) Contention is raised by the respondent company that it has effected closure since 16/02/2021 by paying all dues of workers concerned. However, the Ld. Counsel for the respondents failed to show me payment of unpaid wages during period of 27/01/2019 to 13/07/2020. Therefore, the complainant Union has prima facie established that the respondents have committed unfair labour practices under Item 9 of Schedule IV of the MRTU & PULP Act by not implementing Awards of the Ld. Labour Court dated 09/10/2018.

15) The Complainant has prayed for restraining order against respondent company in respect of plant and machinery. The Ld. Counsel Shri. Bomble-Deshmukh drew my attention towards copy of Index-II dated 29/09/2021 filed along with list Exh. C-12 in connected complaint (ULP) No. 327 of 2019 pending on today's board and submitted that respondent No.1 company has already leased out its property to Qudragen India Pvt. Ltd. Therefore,

according to him, relief claimed by the complainant cannot be granted.

16) It is pleaded by respondent No.1 that it has closed its production activities since 16/02/2021 and paid legal dues of workers concerned. However, fact cannot be ignored that complainants have prima facie establishing that respondents were liable to pay wages for the period 27/01/2019 till 13/07/2020. The said amount is admittedly not paid to these workers and is disputed by the respondents. Considering aforesaid facts and particularly fact that no stay was granted by the Hon'ble Bombay High Court during the pendency of the Writ Petition, the complainant Union has prima facie established the right of these workers concerned in respect of unpaid wages from 27/01/2019 to 13/07/2020.

17) Respondents have filed on record copy of lease deed dated 29/09/2021 in earlier complaint (ULP) No. 323 of 2019. This document appears to be executed after two years of filing of the said complaint and more particularly when the present interim relief application claiming restraining relief against respondents was pending. In spite of knowledge of pendency of the present application, respondents appear to have executed this lease deed. Respondents have not brought on record the period of lease deed. However, though the property is leased, still respondent No. 1 is the owner of the said property.

18) Therefore, in order to secure dues of the workers concerned, the restraining order as claimed by the complainant Union can very

well be passed by invoking powers under Section 30(2) of the MRTU & PULP Act. It is required to mention here that in connected matter complaint (ULP) No. 323 of 2019, this court has granted interim relief restraining respondent No. 1 from alienating its property. As such, it is not required to grant similar relief in this complaint. Accordingly, I pass the following order :-

ORDER

1. Application Exh. U-2 is disposed of in terms of order passed below Exh. U-2 in connected matter complaint (ULP) No. 323 of 2019.
2. No order as to costs.

Date : 29-09-2022.

amj/-

(Shri. S. G. Dabadgaonkar)
MEMBER,
INDUSTRIAL COURT, PUNE.