

verification was undertaken even in order of reference there are no proper particulars such as names, addresses, dates of engagement with the contractors, nature of duties, period of service, present status and other identifying details of alleged beneficiary workmen. In the absence of proper identification and verification of beneficiaries whose names were reflected at the time of admission of dispute in conciliation adjudication of reference would be vague, speculative and incapable of effective implementation. It is a settled principle of law that, in an industrial dispute concerning individual benefits such as; regularization, absorption, concerned workmen must be specifically identifiable and must individually establish the existence of an employer-employee relationship as well as fulfillment of prescribed eligibility conditions. Therefore it is necessary to be directed to the second party Union to file individual affidavits of alleged beneficiaries. Unless such verification and identification are undertaken, the proceedings are likely to result in multiplicity of disputes and cause serious prejudice to first party. The Tribunal has ample powers u/s.11 of the Industrial Disputes Act. Therefore first party prayed reliefs in terms of para (6).

3] The Second Party Union has filed its say at Exh.U-24 and objected the application stating that, the second party has filed statement of claim and thereby giving list of 125 workmen in Annexure-A for whom permanency and other reliefs are prayed in instant reference. There is no provision in Industrial Disputes Act wherein such procedure is to be followed by giving independent affidavits. The Hon'ble Supreme Court has already directed the Tribunal to decide reference within 4 months more particularly by framing issues vide its Judgment in SLP (c) No. 9970/2023. Therefore, appropriate action under contempt of Courts Act may kindly be initiated against signatory

of the application for making repeated prayers for framing preliminary issue in the matter and application may be rejected.

4] Heard both the Ld. Advocates and perused the entire proceeding. After going through the entire proceeding it is observed that, admittedly second party Union has raised dispute u/s.2 (k) of the Industrial Disputes Act vide letter dt.11/06/2019. Thereafter Conciliation Officer was given hearing to the parties on dated 11/06/2019, 19/06/2019, 17/07/2019, 19/09/2019, 20/09/2019, 04/10/2019, 22/10/2019, 08/11/2019, 19/11/2019, 02/12/2019, 12/12/2019 and lastly on 07/01/2020. In the Conciliation proceeding no objection was taken by first party with regards to concerned workmen and about membership of second party Union. It appears that, the second party has filed list of workmen firstly at about 64.. Thereafter list of 14, 118 workmen. Not only list of workmen but it has also filed membership register along with certificate issued by Registrar of Trade Unions. That means first party was not having grievance about the membership of concerned workmen.

5] Further it is undisputed fact that, the concerned workmen were employed by first party No.2 to 4 but according to the second party contract between first party and first party No.2 to 4 is sham and bogus as the workmen were working for the first party. Admittedly Hon'ble Supreme Court has directed to the Tribunal to decide reference within 4 months with direction to frame two issues whether the contract through which the employment is provided to the contract labour are sham and nominal and whether considering nature of work discharged by the workmen of subject Union, the Management is the principal employer of the members of respondent Union ? Once first party has admitted that, the concerned workmen were employed through the contractor namely

2 to 3 it has no voice to object and verify the beneficiaries of contract labours. However it is also upto the first party No.2 to 4 to submit that, whether the concerned workmen were employed or not and it is up to the concerned workmen to submit whether they were working in the factory of first party No.1. Therefore, this Tribunal comes to the conclusion that, there is no need to give direction to second party to file list of individual beneficiary workmen for whom regularization is claimed and no need to direct beneficiary to file individual affidavit and further no need to frame and decide preliminary issue with regards to employer-employee relationship with first party and eligibility and maintainability of reference. Hence, this Application being devoid of merit and deserves to be rejected. Therefore this Tribunal proceed to pass following Order:

ORDER

1]	The Application at Exh.C-16 is hereby rejected.
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Date : 06/03/2026
Place:Aurangabad.

[S. D. Suryawanshi]
Presiding Officer,
Industrial Tribunal, Aurangabad.