

BEFORE THE INDUSTRIAL COURT AT AURANGABAD
(Presided over by S.S. Maudekar, Member)

COMPLAINT (ULP) No.44/2023
MHIC-2000118-2023

Siemens Workers' Union
04, Yash Ashoka CHS, Sudarshan Colony,
Kopri, Thane (East) - 400603
Through : Its General Secretary

.....Complainant.

Vs.

[1] M/s. Siemens Ltd.
Plot no.E-76
MIDC Waluj, Aurangabad
& Others

...Respondents

O R D E R BELOW EXH.U-71

[Dated 07/10/2024]

This is an application for deletion of name of the applicant from the complaint.

2] It is claimed that the complainant Union has filed the instant complaint wherein his name is also included in the Annexure -A as it's member. However, he has resigned from membership of the complainant Union on 18-08-2024 and that he has no grievance against the respondents. Hence he does not intend to pursue or prosecute the complaint and want to withdraw from it unconditionally. It is supported by affidavit Exh. U-72.

3] The say of the complainant is at Exh.U-97. It is claimed that the Court has passed order below Exh.U-2 on 06-06-2023 and status-quo has been maintained in respect of service conditions of

the members of the complainant. The respondents have given 25% wage rise from October-2023 to the workmen who who has withdrawn their names from the matter except the members of the complainant. The workman has filed the application only to gain 25% wage rise after resignation and such practice is required to be deprecated as it undermines the law. It is claimed that when the application is kept for passing of order, deletion of name will undermine the authority. So also, it is claimed that, no objection of the Advocate was not sought which is mandatory. So also, the orders of the Hon'ble High Court of Orissa and Bombay have been referred along with copy of resignation. Hence, it is prayed to reject the application.

4] Heard the learned counsel for the applicant Shri. Mundada and the learned counsel for the complainant Shri. Telangre. According to the learned counsel for the applicant (concerned workman), he does not want to proceed with the complaint and he has no grievance left against the respondents. So, permission may be granted to delete his name and it is claimed that he can engage any advocate of his choice and no objection is not required to be taken. The following authorities are referred :

**[i] Karnataka Power Transmission Corporation Ltd.
v. M. Rajashekar [MFA No. 6526 / 2013 dt.02-12-
2016],**

**[ii] R.D. Saxena v. Balaram Prasad Sharma [LEX
(SC) 2000 – 8 – 59],**

**[iii] C. V. Sudhindra v. Divine Light School for Blind,
Bangalore [LEX (KAR) 2008 – 7 - 62], and**

**[iv] New India Assurance Co. Ltd. v. A.K. Saxena
[LEX (SC) 2003 - 11 – 8].**

5] However, the learned counsel for the complainant has contended that if such practice is permitted to be continued, Union activities will be adversely get affected and powers of the complainant Union to engage with the respondents in collective bargaining may be reduced. So also, it is claimed that the applicant has no right to withdraw the complaint without seeking no objection from the Advocate of the complainant and it is also claimed that the applicant may not be granted benefits of settlement or benefits on the basis of resignation etc. The reliance is placed on the order of the Hon'ble High Court of Orissa in Beta @ Bibekananda @ Santosh Hansdah @ Santosh Hansda v. State of Odisha and orer dated 20-10-2015 in Writ petition No. 11360 of 2014 passed by the Hon'ble High Court of Bombay Bench at Aurangabad in the case of Auto Cars Employees Union v. M/s. Auto Cars.

6] Perused the record. It is seen that earlier also some of the members of the complainant Union whose names are included in Annexure-A had filed similar types of applications claiming deletion of their names. Their applications along with some other Miscellaneous applications were decided by common order dt.06-12-2023 and applications filed by those individual employees who had resigned from membership of the complainant Union were allowed and were permitted to get their names withdrawn from the Annexure-A.

7] There is no doubt that after passing of the common order, the respondents filed written statement and some amendment was also made by the complainant. Hearing of application Exh.U-2 was going on and order is being passed today itself. However, it will not be a impediment for deciding the present application. The complainant is a Trade Union . The record shows that the complainant Union has filed complaint under Section 28 r/w Item 1 (a),(b),4 (a) and 5 of Schedule II and Item 3, 5 , 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (In short “the Act”) . The complainant is a Trade Union and list of its members along with details are given in Annexure -A to the complaint and other few applicants have sought permission to delete their names. It is also found that during the course of proceedings some additional members were included in Annexure-A. In the present matter, the complainant alone is prosecuting claim on behalf of it's members and individual employees are not complainants. No provision has been shown by the complainant that if any of its members are not desirous to continue with the membership or to prosecute the complaint, they can be prevented from doing so.

8] It is a settled principle of law that every person is entitled to relinquish any benefit and it cannot be said that individual employee is not entitled to take independent settlement, whether or not said applicant would get any other reliefs including benefits of wage-rise, is a matter of record and the details thereof can be furnished subsequently also. Though some of the provisions of the Civil Procedure Code have been invoked in the proceedings under the Act and even the Industrial Court Regulations are some how silent regarding application

of order Order III of the Code of Civil Procedure about filing of appearance or Vakilpatra . But in Chapter-II , Regulation 11 to 20, some forms are prescribed and party can authorize it's representative to appear on it's behalf.

9] It seems that during pendency of the complaint, the applicant has resigned from the membership of the Union, as it's copy has been filed by the complainant itself, the individual workman is not required to file Vakilpatra of the Advocate appearing for the complainant Union individually. However, if any workman is not desirous to continue with the complaint or to be part of the Union and if it had settled the matter for reason whatsoever, he cannot be compelled to continue with the matter, otherwise serious prejudice will be caused to him or her. Hence, there is no question of seeking no objection from the Advocate for the complainant Union and they can certainly engage any other Advocate of their choice to get their names deleted. Hence, the submission of the complainant cannot be accepted that no such permission can be granted.

10] Even authority **Beta @ Bibekananda** (supra) is not helpful to the complainant as Order 3 Rule 4 of the Civil Procedure Code is not applicable here. As per order of the Hon'ble High Court in the case of **M/s.Auto Cars** (supra), it was found that adjudication was sought by the respondents for making submissions on application for interim relief. It was also found that some employees were given employment after resignation from the Union. So, direction was given to the respondents to not accept the resignation from the members of the petitioner Union till further orders. However, here also there is no documents to show that any further action was taken by the respondents

on the basis of resignation letter. But whatever that may be, it was sort of interim order and here also when the order is being passed today itself , no purpose will be served in keeping the order in abeyance. Accordingly, even if the application for interim relief is to be decided on merit , individual employees i.e. members of the Union can be permitted to withdraw or to get names deleted.

11] In the authorities cited by the applicants earlier and relied on by the present applicant, the Advocate cannot retain the file or papers of their client and that contract of Vakalatnama can be withdrawn by the client at any time. Hence, there is no substance in the contention of the complainant that it can obstruct resignation of the employees or to prevent the respondents from giving any benefits to them. As such, I pass the following Order :

ORDER

1.	The application is allowed.
2.	The applicant is permitted to not prosecute the complaint and to get his name deleted from Annexure-A .
3.	Necessary amendment be carried out by the complainant in Annexure “A” of the complaint accordingly.
4.	Cost in cause.

Sd/-

[S. S. Maudekar]

Member,

Industrial Court, Aurangabad.

Date :07-10-2024
Aurangabad.

Kad/-