

IN THE INDUSTRIAL COURT AT AURANGABAD
(Presided over by S. S. MAUDEKAR, Member)

Complaint (ULP) NO. 98 OF 2020

[CNR NO.MHIC20-00-0240-2020]

Tatyrao s/o Bapurao Fade ... COMPLAINANT

Versus

[1]The Chairman,
Shri Sant Eknath Sahakari Sakhar
Karkhana Ltd. Eknath Nagar,
Paithan, Tq-Paithan,
Dist: Aurangabad + (2). ... **RESPONDENTS**

Appearance:

1. Shri R.R. Imale ,the learned Advocate for the applicant.
2. Shri P.M.Shinde and Shri.P.B. Jadhav, the learned Advocates for respondent No.1 & 2.

ORDER BELOW EXH. C-7

[Passed on 26th day of September, 2023]

This is an application for deletion of respondent No.1 from the present matter.

2] According to respondent No.1, the complainant has added respondent No.1 - The Chairman, Shri Sant Eknath Sahakari Sakhar Karkhana Limited in the complaint. The State of Maharashtra Co-operative Department has appointed Administrator by discontinuing the Managing Committee vide

Order dated 28-03-2023. So, the post of Chairman is not functioning and administrator has taken chart of respondent No.1. So, respondent No.1 has no authority or power to conduct the cases in the Court on behalf of the Sugar Factory. Hence, it is prayed to delete respondent No.1 Chairman from the complaint/proceedings.

3] Say of the complainant is on the rear side of the application. The complainant opposed the application claiming it is misconceived and filed with an intention to misdirect the Court. It is submitted that the post of chairman is not abolished. Hence, it is prayed to reject the application as it is not maintainable in law.

4] Heard the learned counsel for the complainant and learned counsel for respondent No.1. According to the learned counsel for respondent No.1, respondent No.1 has no right or authority to file any application or to appear before the Court, as it would be without power and to avoid further complications, it is necessary to delete his name and to direct the complainant to add administrator as a respondent. On the other hand, the learned counsel for the complainant has submitted that the application is misconceived and respondent No.1 has not been joined as a Party in his individual or personal capacity but it has been made respondent by designation. So, that designation is still in existence even after order of appointment of the administrator. Hence, it is submitted that the respondent no.1 cannot be deleted from the array of the complaint and even it is

submitted that it is not necessary to add administrator. Ultimately, it is prayed to reject the application.

5] Perused the record. It is gathered that in several other proceedings like Complaint (ULP), Delay Condonation Application (ULP), Recovery Application (ULP) etc. similar type of applications have been filed by the respondents. This is an application for condonation of delay in filing the complaint. Similarly, respondent No.1 has relied on order dated 28-03-2023 and its copy is filed at Exh. C-4(A). Before going into the merits of the application, it is found that, the applicant/complainant is an ex-employee of the respondent Shri Sant Eknath Sahakari Sakhar Sugar Factory and in the complaint he has claimed reliefs of monetary benefits alleging commission of unfair labour practice on the part of the respondents under Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. The respondent No.1 is Chairman of the said Sugar Factory, whereas respondent Nos. 2 & 3 are the Managing Director and Chairman of Shri Sant Eknath- Sachin Ghayal Sugar Pvt.Ltd. . It is alleged that, respondent No.3 has taken possession of the Sugar Factory and it being run by it.

6] From the said order dated 28-03-2023 it is found that as per the Competent Authority the Joint Registrar Co-operative Society due to some irregularities and delay in initiating election, the Managing Committee was dissolved or powers of the Managing Committee were extinguished and came to be handed over to the Competent Authority, Deputy

Registrar and Assistant Registrar of Co-operative Societies. The Competent Authority has to take steps for formation of new Managing Committee within six months. As per the record, the application is signed by one Tushar Shisode and he also signed the Vakalatnama as a Chairman. The present application has been filed by mentioning the said Tushar Shisode as Ex-chairman. However, the complaint and application clearly show that respondent No.1 is the Chairman of the said Sugar Factory and there is no mention of person holding the post.

7] It is true that the said Tushar Shisode was holding the post of Chairman till the order of the Competent Authority, but even after the said Competent Authority exercised the powers of administrator, it is not impossible that another Chairman may be elected or appointed to carry out the functions of the said Sugar Factory. As per Section 29 of the Act, the Order of the Court is binding on the parties to the complaint as well as successor, assignee of the employer. The said Tushar Shisode has not filed any document to show that he had intimated about the pendency of the said applicant to the Competent Authority or Administrator. But even otherwise, it is admitted that Tushar Shisode has no right or authority to take any decision of behalf of respondent No.1, it cannot be said that presence of the respondent No.1 is not necessary. It cannot be forgotten that formation of temporary Committee of Administrators / Competent Authority is only for limited period and thereafter the Management of the said factory will be looked after by respondent No.1 or any other

authority. So, even if the said Tushar Shisode has ceased to exercise any powers as Chairman, there is no question of deletion of respondent no.1 from array of the respondents. It is for the complainant to take steps whether or not add the Administrator. Hence, I pass the following order:

ORDER

1.	The application is rejected.
2.	The application for condonation of delay shall proceed further as per law.

Place:-Aurangabad.

Date 26-09-2023

**(S.S. Maudekar)
Member,
Industrial Court, Aurangabad**

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