

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

Complaint (ULP) NO. 178 OF 2017

[CNR NO.MHIC20-000-738-2016]

Bhimrao s/o Dadarao Doke

... **COMPLAINANT**

Versus

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

... **RESPONDENTS**

Appearance:

1. Shri R.D. Khadap ,the learned Advocate for the complainant
2. Shri P.M. Shinde , the learned Advocate for respondent No.1.

ORDER BELOW EXH.C-4

[Passed on 29th day of November, 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 charge 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.

3] Say of the complainant is on the rear side of the application. The complainant opposed the application claiming that the chairman is necessary party. There is no document on record regarding appointment of administrative officer upon Karkhana. The application is filed with an intention to misdirect the Court. It is submitted that the order issued by the authority does not show that the post of Chairman of the Sugar Factory is abolished. Respondent No.1 is arrayed as Chairman. The respondent no.1 is an important party. Hence, it is prayed to reject the application with costs.

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 even to appear before the Court, as it would be without power. So, to avoid further complications, it is claimed that it is necessary to delete his name and to direct the applicant to add administrator as a respondent. On the other hand, the learned counsel for the applicant 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 respondent No.1 cannot be deleted from the array of the respondents and even it is submitted that it is not necessary to

add the 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 types of applications have been filed by the present respondent. Similarly, respondent No.1 has relied on order dated 28-03-2023 and its copy has been filed in the Recovery Application (ULP) No. 8/2016 at Exh. C-4, and the Court has gone through the said order.

6] Before going into the merits of the complaint, it is found that, the complainant being ex-employee of the Shri Sant Eknath Sahakari Sakhar Sugar Factory have 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, i.e. the Act . Respondent No.1 is Chairman of the said Sugar Factory. It is alleged that, the Administrative Officer appointed by the Co-operative Authority has taken possession of the Sugar Factory and it being run by it.

7] From copy of 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 the same 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, one Tushar Shisode signed the Vakalatnama as Chairman. The present application has been filed by mentioning the said Tushar Shisode as Ex-chairman. However, the application filed by the applicant clearly shows that respondent No.1 is the Chairman of the said Sugar Factory and there is no mention of a person holding the post.

8] 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 possible that another Chairman may be elected or appointed to carry out the functions of said the said Sugar Factory. In effect, allowing the application would result into indirect stay to the proceedings against respondent No.1. Even if it is allowed and subsequently, some other person takes charge of the post of Chairman, again an amendment will have to be made by the applicant. So, the process may be endless.

9] As per Section 29 of the Act, the Order of the Court is binding on the parties to the complaint as well as successor, and 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 application to the Competent Authority or Administrator. But even otherwise, if it is admitted that Tushar Shisode has no right or authority to take any decision on behalf of respondent No.1, it cannot be said that presence of respondent No.1- the Chairman is not necessary. On the other hand, for effective and conclusive adjudication of the matter, its presence is indispensable. So respondent No.1 is a necessary or at least a proper party. Further, as

Tushar Shishode is not a party in person, so he can not be said to have any authority to move such an application.

10] It cannot be forgotten that formation of temporary Committee of Administrators / Competent Authority is only for a limited period and thereafter the Management of the said factory will be looked after by respondent No.1 as per the bye laws. So, even if the said Tushar Shisode has ceased to exercise any powers as a Chairman or in future, some different person holds the said post, there is no question of deletion of respondent No.1 from the array of the respondents. It is for the applicant to take steps whether or not he wants to add the Administrator. Moreover, the matter being old one, the hearing of the same will have to be expedited. Hence, I pass the following order:

ORDER

1.	The application is rejected.
2.	The matter shall proceed further as per law.

Place:-Aurangabad.

Sd/xx

Date -29-11-2023

(S.S. Maudekar)

Member,

Industrial Court, Aurangabad

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