

THE INDUSTRIAL COURT ( MAHARASHTRA)  
(BHANDARA BENCH), BHANDARA.

Complaint (ULP) No.18 of 2022  
(CNR NO.MHIC36-000040-2022)

Hindustan Composites Employees Union  
Through its Chief Advisor

..... versus .....

Hindustan Composites Ltd.

ORDER BELOW EXH.C-5  
(Passed on 30<sup>th</sup> July, 2022)

The respondent has filed this application for framing preliminary issue and its decision.

2] In brief, according to the respondent, that instant complaint is filed through Chief Advisor of Hindustan Composite Employees Union namely Shri S. N. Wadhai. He is neither an employee in the factory of respondent nor elected representative of the Union. He is outsider. He has no locus standi to file instant complaint in view of the provisions of Section 28 of the Maharashtra Industrial Relations Act, 1946 which speaks about election of workers to elect representatives of the employees to

represent them with respondent Management. There is no resolution of the Union entrusting powers to S. N. Wadhai to file this complaint. Therefore, according to respondent, it is necessary to frame preliminary issue and decide it right now.

3] The application is opposed by complainant contending that Hon'ble Supreme Court time to time endorsed law that as far as possible the preliminary issue need not be framed and decide it separately. The law, in this regard, is that to avoid delay in decision of main complaint it would be just and proper to decide all the issues together. With this, complainant prayed for rejection of the application.

4] Heard learned Advocates of both the sides. Having heard both the learned Advocates, at the outset, I would like to mention that the whole object of dealing with the disputes under labour laws is for bringing the peace and harmony in the industrial atmosphere of any industrial undertaking. When the matter is referred to the Court it is to be kept in mind that on account of procedural wrangles, the employer does not stretch or unnecessarily prolong a case which frustrate the cause and affect rights of the workman. Stretching proceedings to long may cause exploitation of the employees. The Courts should therefore, adopt the procedure which curtail a long drawn

litigation. Whether an objection could be tried as preliminary issue or not would be question depending on the peculiar facts and circumstances of each case. Admittedly, in Cooper Engineers reported 1975 (2) LLLJ page 379 it is observed that,

*"the established practice Labour Court and Tribunal shall try all the issues at the same time and shall not try any issue as preliminary issue other than fairness of enquiry in order to avoid delay which will lead to misery to the workman, since it would jeopardize the industrial peace."*

5] Keeping the law laid down by Hon'ble Apex Court and the nature of the objection raised in the complaint and the fact that respondent has already filed written statement and raised same issue, therefore, in my view, all the issues shall be decided together. The case is already fixed for framing of issues and by virtue of order passed below Exh.U-2, the trial of the case has been expedited by this Court. In such state of affairs, I find that there is no extreme need to frame preliminary issue regarding the locus standi of the complainant and to decide it at earliest. Accordingly, application stands disposed of.

Bhandara.

( Atul K. Shah )

Member

Dated: 30.07.2022

Industrial Court, Bhandara.