

Exh.O-7

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

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

Hindustan Composites Employees Union

..... **versus**

Hindustan Composites Ltd.,

ORDER BELOW EXH.C-8
(Passed on 18th October, 2022)

This is an application by M/s. Aniket Services through its Proprietor Sanjay Rehpade for intervention in this complaint.

2] Facts giving rise in short are as under :

That the complainant Union has filed this complaint under Section 28 read with Item 5 and 9 of Schedule IV of the Maharashtra Act No.1 of 1972 claiming therein that the members of the Union/Employees are engaged by respondent in the capacity of operators, machanicns from the dates shown against their names in Annexure "A" attached with the complaint. They are continuously working without any

interruption. They are doing the work of perennial nature. Therefore, as per the provisions of law, respondent company is under obligation to regularize their services, so also, to pay them wages as per the provisions of the Minimum Wages Act,1948. However, the respondent company neither regularized the services of its employees nor paying them wages as per the Minimum Wages Act. Therefore, the complainant Union has claimed declaration regarding unfair labour practice within the meaning of Item 6 and 9 of Schedule IV, so also, seeking relief of making their services as regular with consequential benefits.

3] Admittedly, in response to the notice of this complaint, respondent company appeared and filed its reply cum written statement at Exh.C-6 and submitted that respondent Management is having various contractors such as Disha Manpower and Security Management Services, and Aniket Services. Said agencies have provided contract workers to the respondents. The names of employees given in Annexure "A" are the employees of said service provider agencies and they not the direct employees of the respondent.

4] Pending the case for further hearing M/s. Aniket Services has filed this application for permitting it to intervene in this complaint. It is contention of the intervenor that it is a

registered contractor having registration certificate under the provisions of the Maharashtra Shops and Establishment (Regulation of Employment and Conditions of Service) Rules having its GST Registration Certificate, EPFO Certificate and ESIC Certificate. It has provided workers to the respondent company. Employees whose names are given at serial no.1 to 8 in list of employees Annexure "A", basically they are the employees provided by intervenor to the respondent company. According to the intervenor, its intervention in this complaint is very much necessary to arrive at a proper decision in complaint. Thus, it prayed to allow its intervention.

5] On the other hand, complainant Union has opposed this application by filing reply at Exh.U-10. It is contention of the complainant that intervenor is trying to frustrate the claim of complainants involved in this complaint. In fact, they are the direct employees of the respondent company, however, the respondent company has made only a paper arrangement. The application is not mentioning clear facts that on which date it has engaged employees, date of enrollment, contract etc. The contract labours are engaged only when there is a excessive work with respondent. In the present complaint, it is not so. Besides, documents filed alongwith list Exh.U-12 i.e. employees state insurance corporation form demonstrate the name of employer as a respondent company. The sum and substance of contention

of the complainant Union is that only in order to frustrate the claim of complainants by joining hands with respondent the intervenor has filed this false application. With this complainant prayed for rejection of the application.

6] The respondent has supported this application.

7] Heard learned Advocates for the complainants, respondent and intervenor at length.

8] The learned Advocate appearing for the complainant Union in his argument vehemently submitted that if veil is lifted the Court will find the intervenor has no locus to intervene in this complaint. The intention of intervenor and respondent is only to frustrate the claim of the employees raised in this complaint. The learned Advocate drew attention of the Court to the documents placed on record alongwith list at Exh.U-12 wherein the employer's name in Employees Insurance Form mentioned as the name of respondent company. It categorically reflects that respondent has engaged the employees and they are not provided by any service provider.

9] On the other hand, learned Advocate appearing for the intervenor submits that they are its employees. By

intervening in this complaint, the intervenor wants to bring real position on record which would ultimately helps the Court in arriving to a just and proper conclusion. This argument of intervenor is accepted supported by respondent.

10] Having heard both sides, at the outset, it would be advantageous to mention here that, complainant Union has come with a case that the employees working with respondent have been directly engaged by respondent company. Whereas, it is a specific defence of respondent company that intervenor agencies have provided said employees to it. So, they are not their direct employees. The intervenor is also coming on the same line alongwith bunch of the documents demonstrating that said agency is maintaining service record of the employees i.e. muster roll, payment receipts, employees provident fund etc. These documents are pertaining to the same employees, therefore, in my view the intervenor has locus to intervene in this complaint. Its intervening is also necessary for coming to fair decision on the issue involved in this complaint. If at this stage, intervention is refused in that event it would amount to arriving at a final conclusion without there being any trial. Hence, I pass following order.

ORDER

- i] Application for intervenor is allowed.

- ii] Complainant is directed to join intervenor as respondent no.2 in the complaint and place on record amended copy of complaint.

- iii] No order as to costs.

Bhandara.

(Atul K. Shah)

Member

Dated: 18.10.2022

Industrial Court, Bhandara.