

Bhartiya Kamgar Sena
Prafullban Co-op Society
R.K. Vaidya Road
Dadar (West), Mumbai 400 028 ... **Applicant**

DRT Anthea Aroma Chemicals P.Ltd
51-A, (Unit I) & 51-A/1(Unit 2)
Roha MIDC 402 116 ... Non Applicant

Appearances :- Mr. S.S. Ojha, Adv for Applicant
Mr. Mohit Kapoor, Adv for Non Applicant.

J U D G M E N T

1. This application is filed by the applicant Bhartiya Kamgar Sena Union for getting recognition certificate u/s 11 of Maharashtra Recognition & Unfair Labour Practices Act, 1971 (hereinafter referred as MRTU & PULP ACT, 1971. The applicant union is a registered trade union registered on 7.8.1968 under the Certificate No. 6142 issued by the Registrar of Trade Union Mumbai. The applicant union is having office bearers elected on 16.4.2015. It is having One President, and other Vice President, General Secretary, Treasurer and members. The applicant union has claimed that it is having membership in the non applicant company i.e. DRT Anthea Aroma Chemicals Pvt Ltd, Roha of 81% for the whole period of six calendar months immediately

preceding the months in which this application is made. Accordingly the applicant union has contended that it is having 79 employees as members out of total employees working in the non applicant undertaking and this position is prevailing in each month from July, August, September, October, November and December 2015. The present application came to be filed in the month of January 2016. The applicant union further claims that in the meeting of Executive Committee of applicant union which was held at Shivsena Bhavan on 3.12.2015, it was decided to apply for registration of applicant union as recognised union for non applicant company.

2. The applicant union has given address of non applicant company in the application. The applicant company has filed copy of constitution of applicant company and paid prescribed fee of Rs. 20/- for the application by way of Court fee stamp. The applicant company has claimed that it has not instigated, aided, assisted the commencement or continuation of strike amongst the employees in the non applicant undertaking which is deemed to be illegal strike under the provisions of MRTU & PULP ACT, 1971 within six months immediately preceding the date of the application. In para 11, the applicant union has claimed that a member has to pay monthly subscription of Rs. 20/-every month. The dates of Executive Committee Meeting of the union are given in the said para claiming that said meetings were held on 5.3.2015, 5.6.2015, 7.9.2015 and 3.12.2015 during the preceding 12 months. The applicant also claimed to have maintained

Minute Book in which all the Resolutions passed by the General body are recorded. The applicant union also claims to have maintained accounts which were audited by Mr. Prasanna Ghate Chartered Accountant on 5.3.2015 and the Certificate of the Auditor also claims to have been attached with the application. The accounting year of the applicant is from January to December. The applicant union also claims to be recognised union for other undertakings whose list have been attached with the application. The applicant union therefore, claims recognition certificate from the Court.

3. Notices of this application were issued to the non applicant company on 19.1.2016. The notices were issued to the non applicant company alongwith another copy of notice for the purpose of publication on the notice board of the company. The non applicant company appears to have displayed the said notice on the notice board of the company in Hindi and Marathi language which is commonly understood by the workers of the non applicant undertaking. On 28.1.2016 the affidavit to that effect is filed in the Court at Exh. C-2 alongwith copies of the notices displayed on the notice board.
4. The non applicant company has filed its say at Exh. C-3 in which the non applicant company has given "No Objection" to issue Certificate of recognition to the applicant. Hence, I have framed following issues at Exh. O-1. My answers to the said issues with reasons are as under :

ISSUES

FINDINGS

1. Whether the applicant union is entitled to recognition ?

Yes

2. Whether the application is

maintainable ?

Yes

3. What order ?

As given below.

REASONS

5. **As to Issue No. 1 to 3** : The applicant has filed membership list of the applicant union who are employees working in non applicant company at Exh. U-8. It has also filed true copies of Certificate of Registration at Exh. U-9, copy of Resolution regarding authority to apply for recognition at Exh. U-10, true copy of Constitution at Exh. U-11, copy of Auditor's report at Exh. U-12, list of office bearers and Executive Committee Members for the year 2015-2016 at Exh. U-13 and list of companies for which the applicant union is working as recognised union at Exh. U-14.

6. In support of the application, the applicant has filed affidavit -in-lieu of examination-in-chief of one Narayan Krishna Pokhare at Exh. UW-1, who is Secretary of Union. He has stated in the affidavit that 79 workmen / employees working in non applicant undertaking are members of applicant union during preceding six months of the date of filing this application, and the applicant union is having 81% membership during the relevant period. He has stated that the applicant union has held Executive Committee Meeting at Shiv-Sena Bhavan, Dadar (West) Mumbai 400 028 on 3.12.2015, in which it was decided to apply for recognition and resolution to that effect was passed. The said resolution has been put on record and the same is proved. He has also

stated that the union provides for matters as mentioned u/s 19 of the MRTU & PULP ACT, 1971, and the said union is not engaged in any strike which is deemed to be illegal under the Act within six months immediately preceding of the date of filing application. He has also stated about subscription of Rs. 20/- every month for the member of applicant union. He has given details of meetings of Executive Committee held during preceding 12 months of the date of filing application. The said meetings were held on 5.3.2015, 5.6.2015, 7.9.2015, 3.12.2015. He has stated that all the resolutions passed by the Executive Committee and General Body are recorded in the Minute Books which is maintained by the union. He has stated that the applicant union maintained its accounts and such accounts were audited by Mr. Prassana Ghate, Chartered Accountant on 5.3.2015. The documents which are referred to above are proved by this witness and hence the same are exhibited and can be read in evidence.

7. The non applicant company has complied with the provisions of Rule 85 of the Industrial Court (Regulations) by displaying the notice on the notice board. The non applicant company has not opposed recognition application of the applicant union. Even after displaying the notice on the notice board of the non applicant company, no other union has come forward to oppose application of the applicant union.
8. From the above discussions, it appears that the applicant union has satisfied conditions requisite for the purpose of granting recognition as provided u/s 11 of MRTU & PULP ACT, 1971 as also the applicant union has satisfied the

provisions of section 19 of MRTU & PULP ACT, 1971. It also appears that Executive Committee Meetings are held at regular intervals of not more than three months and resolutions passed by Executive Committee as well as General Body Meeting are recorded in the Minutes Book kept for the purpose. The applicant union has carried out audit of the accounts of the applicant union once in a year.

9. The applicant union has stated in the application as well as affidavit of the witness that total 79 employees of non applicant undertaking are members of applicant union, and they were continuously members of applicant union for six months immediately preceding the calendar month in which the applicant has made this application. The application has been filed in the month of January 2016 and since July 2015 to December 2015, the applicant union held membership of 79 employees of non applicant undertaking. Hence percentage of membership comes to 81%. Hence, there is not less than 30% membership of the applicant union of employees employed by the non applicant company and hence the applicant union has satisfied the conditions enumerated u/s 11 of MRTU & PULP ACT, 1971.

10. The non applicant undertaking has appeared in the matter. The Ld. Advocate for the non applicant undertaking Shri. Mohit Kapoor submitted before me that the non applicant undertaking do not have any objection regarding procedure for granting recognition. The non applicant company has declined to take cross examination of the witness of the applicant union and non applicant company has not lead any

evidence and filed purshis to that effect at Exh. C-4.

- 11.From the above discussions, it appears that the non applicant undertaking is having “No Objection” to grant recognition to the applicant union. There is no other union to oppose the application. The applicant has relied upon Judgment of Hon'ble Bombay High Court in the case of **Mumbai Mazdoor Sabha Bombay etc Vs. Bombay Dyeing and Manufacturing Co.Ltd., Bombay and Another reported in 1984(48) FLR Page 22 (SC)**, in which it is observed by the Hon'ble High Court that :

“The only point involved in this appeal is whether the Industrial Court erred in rejecting the application of the applicant union for acquiring the status of a recognised union under the Act ? No enquiry is necessary to be made in this behalf because the Respondent concedes that the applicant union is recognised as a recognised union under the Act. We allow the appeal by the consent of parties on this point and declare that the appellant union is the recognised union for the workmen of the Respondent company and this declaration is for the purpose of the Act.”

It appears that above Judgment of Hon'ble High Court is squarely applicable to the facts of the present case. In the present case also the non applicant company has no objection to register applicant union as recognised union.

- 12.The non applicant undertaking is having no objection to grant recognition to the applicant union, and therefore, I have no hesitation to hold that the

applicant union is entitled for recognition. Hence, the application deserves to be allowed. In the result, I answer the Issues accordingly and proceed to pass following order :

ORDER

1. The application filed by the applicant Union is allowed.
2. The Applicant Union be registered as recognised Union for the Non Applicant Undertaking – M/s. DRT Anthea Aroma Chemicals Private Limited, 51-A(Unit 1) and 51-A/1(Unit 2) Roha, MIDC 402 116.
3. The Office is directed to issue certificate of recognition to applicant union – Bhartiya Kamgar Sena u/s 12 of the MRTU & PULP ACT, 1971.
4. No order as to the costs.

Sd/-

Place :- Thane

(D.M. Patil)

Member

Date :- 14.03.2017

Industrial Court, Thane.

Sd/-

Assistant Registrar

Industrial Court, Thane.

nsp