

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 943 OF 2008

Inter-Gold (India) Pvt. Ltd. ..Petitioner

Vs.

General Employees Union and ors. ..Respondents

Mr. J.P. Cama, Senior Advocate with Mr. Amit Dhatia
i/by M/s. Sanjay Udeshi and Co. for petitioner.

Mr. R.D. Bhat for respondent no.1.

Mr. M.D. Nagle for respondent no.3.

CORAM: B.H. MARLAPALLE, J.

Date : February 12, 2008.

P.C.:

1. Heard Mr. Cama the learned Senior Counsel with Mr. Dhatia i/by M/s. Sanjay Udeshi and Co. for petitioner-company. Mr. Bhat the learned counsel appears for respondent no.1 and Mr. Nagle the learned counsel appears for respondent no.2. Respondent No.3 be deleted forthwith.

2. The petitioner-company is aggrieved by the

Judgment and Order rendered by the Industrial Court at Mumbai on 4/12/2007 thereby allowing Complaint (ULP) No. 483 of 2005 filed by the respondent no.1-Union.

3. The issue before the Industrial Court was, whether the deductions of Rs.250/- effected by the petitioner-company and paid over to the respondent no.2-Union pursuant to Clause - 4 in the settlement dated 4/10/2005 amounted to an act of unfair labour practice under Items 9 and 10 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971 and the Industrial Court has answered the said issued in the affirmative and held that the deduction of Rs.120/- from each workman towards Union subscription for the respondent no.2-Union without the consent of such individual workman is an act of unfair labour practice and, therefore, directed the petitioner-company to recover the said amount from the respondent no.2-Union by following the procedure as may be permissible in law.

4. There is no dispute that the petitioner-company deducted an amount of Rs.250/- between the period from 5/10/2005 to 10/10/2005 in

terms of the settlement dated 4/10/2005 signed with respondent no.2-Union which is a recognised Union under the M.R.T.U. & P.U.L.P. Act, 1971 as of now and from the said amount Rs.130/- was the donation for the recognised Union and balance of Rs.120/- was towards the Union subscription for one workman. It is also admitted that there is one application pending, as of now, before the Industrial Court for cancellation of the recognition of the respondent no.2-Union and everyone of the 430 workmen have accepted the settlement dated 4/10/2005 and consequently deductions have been made for payment of Rs.250/- to respondent no.2-Union.

5. Mr. Cama, therefore, raised an issue as to whether in these obtaining circumstances and in the absence of any complaint or representation made by any of these 430 workmen, the Industrial Court was justified or right in law to hold that the Company engaged in an act of unfair labour practice by deducting an amount of Rs.120/- towards the Union subscription on the ground that there was no consent from the individual workmen.

6. The issues raised in this petition require considerations and hence, Rule. Respondents waive service.

7. On the prayer of interim relief, it is noted that the total amount of Union subscription comes to Rs.51,600/-. As of now, it cannot be said for sure that some or the majority of these workmen are the members of the respondent no.1-Union and the said Union's witness before the Industrial Court admitted in his oral depositions that there was no record to show that any individual workman had filed complaints protesting against the deduction for Union subscription. At the same time, as noted above, the respondent no.2-Union is facing at least one application for cancellation of its recognition and the said application is required to be decided on its own merits. The respondent no.2-Union has filed Writ Petition No. 948 of 2008 and has contended that the directions given by the Industrial Court in the impugned judgment are likely to prejudice its case while dealing with the pending application for

cancellation of its recognition.

8. Hence, interim relief in terms of prayer clause (b) subject to the condition that the amount of Rs.51,600/- is deposited with the Registry of this court by the Company within a period of four weeks from today.

9. Call for R & P and list the petition for final hearing in the week commencing from 7/4/2008.

(B.H. Marlapalle,J.)