



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15520 OF 2024

Mahindra and Mahindra

Workers Union and Ors

... Petitioners

Versus

Suhas Changdev Gore and Ors

... Respondents

Mr. Vijay P. Vaidya *a/w Mr. Mahendra M. Agavekar & Ms. Shraddha Chavan for the Petitioners.*

Mr. Hemant Ghadigaonkar *a/w Mr. Sandesh More & Mr. Hitendra Gandhi, Mr. Om Gandhi for Respondent Nos. 1 to 13.*

Mr. N. B. Jalota *i/b Mr. Ghanshyam Tripathi for Respondent No.14.*

CORAM : SANDEEP V. MARNE, J.

DATE : 15 JANUARY 2025.

P.C. :

1) The Petition challenges orders dated 13 September 2024 passed on application at Exhibit UA-2, by which, the prayer of the Petitioners for framing and deciding the preliminary issue relating to maintainability of the application has been rejected. Petition also challenges order dated 13 September 2024 passed on application at Exhibit U-2, by which, interim relief is granted in favour of Respondent No.1 by permitting him to participate and contest the elections of the managing committee.



2) Application (ICTU) No. 3 of 2024 has been filed before the Industrial Court under provisions of Section 28(1-A) of the Trade Unions Act, 1926 in pursuance of Consent Certificate issued under provisions of Rule 23 of Maharashtra Trade Union Regulations, 1927 for adjudication of disputes relating to managing committee, office bearers (elections) and property of the Union. Section 28(1-A) of the Trade Unions Act provides thus:

"28(1-A). Power of Industrial Court to decide certain disputes.-

(1) Where there is a dispute as respects whether or not any person is an office-bearer or a member of a registered Trade Union (including any dispute relating to wrongful expulsion of any such office-bearer or member), or where there is any dispute relating to the property (including the account books) of any registered Trade Union, any member of such registered Trade Union for a period of not less than six months, may, with the consent of the Registrar, and in such manner as may be prescribed, refer the dispute to the Industrial Court constituted under the Maharashtra Industrial Relations Act, 1946, for decision.

(2) The Industrial Court shall, after hearing the parties to the dispute, decide the dispute; and may require an office-bearer or member of the Registered Trade Union, to be appointed whether by election or otherwise under the supervision of such person as the Industrial Court may appoint in this behalf or removed, in accordance with the rules of the Trade Union:

Provided that the Industrial Court may, pending the decision of the dispute, make an interim order specifying or appointing any person or appointing a Committee of Administration for any purpose under the Act including the purpose of taking possession or control of the property in dispute and managing it for the purposes of the Union pending the decision.

(3) The decision of the Industrial Court shall be final and binding on the parties and shall not be called in question in any civil Court.

(4) No civil court shall entertain any suit or other proceeding in relation to the dispute referred to the Industrial Court as aforesaid, and if any suit or proceeding is pending in any such Court, the civil court, shall, on receipt of an intimation from the Industrial Court that it is seized of the question, cease to exercise jurisdiction in respect thereof.

(5) Save as aforesaid, the Industrial Court may, in deciding disputes under this section, exercise the same powers and follow the same procedure as it exercises or follows for the purpose of deciding industrial disputes under the Maharashtra Industrial Relations Act, 1946."



3) In their (ICTU) No. 3 of 2024, the contesting Respondents have *inter alia* prayed for a declaration that the Petitioners are not legally and constitutionally elected office bearers or executive committee members of the Union. In my view, therefore the said prayer raised by the contesting Respondents would squarely fall within the ambit of provisions of Section 28(1-A) of the Trade Unions Act, 1926. The Industrial Court has therefore rightly refused to frame a preliminary issue relating to maintainability of the application.

4) Mr. Vaidya, the learned counsel appearing for the Petitioners would seek to urge that the other prayers made in the application would clearly fall outside the scope of provisions of Section 28(1-A) of the Act. In my view, this is something which the Industrial Court would decide while taking a final decision in the application. So long as one of the prayers raised in the Application conforms to the requirements of Section 28(1-A), it would be impermissible to dismiss the entire Application on the ground of maintainability. Merely because the application for framing and decision of preliminary issue relating to maintainability is rejected, the same would not *ipso facto* mean that all the prayers raised in the application can be adjudicated under provisions of Section 28(1-A) of the Act. It is for the Industrial Court to take a final decision in this matter and if Petitioners are in a position to demonstrate before the Industrial Court that any of the prayers in the Application falls outside the scope of Section 28(1-A), I am sure the Industrial Court would proceed to reject such prayers. However, to expect that the entire Application must be dismissed on the ground of non-maintainability is something which cannot be countenanced so long as there is prayer for a declaration about illegality in the



election of office bearers and executive committee members of the Union. I therefore do not find any valid ground to interfere in order dated 13 September 2024 passed on application at Exhibit UA-2.

5) So far as the second impugned order passed on 13 September 2024 granting interim relief in favour of Respondent No.1 in application at Exhibit U-2 is concerned, Mr. Vaidya would submit that Form 'K' was filed on 1 December 2023 whereas the expulsion of Respondent No.1 is effected on 16 January 2024. He would therefore submit that the issue of expulsion of Respondent No.1 is not covered by the Consent Certificate dated 15 February 2024 as no attempt was made by him to amend the application dated 1 December 2023 in Form 'K'. In my view, it is not necessary to delve deeper into the issue as to whether the issue of expulsion of Respondent No.1 can also be considered in Application (ICTU) No. 3 of 2024. It is the contention of Respondent No.1 that he was deliberately expelled from the membership of the Union because he showed audacity to file an application before the Registrar for issuance of Consent Certificate questioning validity of the elections. There is no dispute about the position that the issue of expulsion of a member can also be adjudicated by the Industrial Court under provisions of Section 28(1-A) of the Act. What has not been done is a formal ministerial act of the Registrar in not incorporating the grievance with regard to expulsion of Respondent No.1 in the Consent Certificate dated 15 February 2024. In my view, the Industrial Court can decide the issue as to whether the question of expulsion of Respondent No.1 can be adjudicated in Application (ICTU) No. 3 of 2024 in absence of the Consent Certificate covering the said grievance. It would be too early at this stage to rule that the prayer for declaration of expulsion as illegal cannot be considered or



decided by the Industrial Court in Application (ICTU) No. 3 of 2024.

Therefore, the issue is expressly kept open.

6) So far as permission granted by the Industrial Court to Respondent No.1 to participate and contest the election of the managing committee is concerned, it is pointed that the elections are slated in May 2025. The Industrial Court has already expedited decision of Application (ICTU) No. 3 of 2024. There would be no occasion for Respondent No.1 to contest the elections before May 2025. In that view of the matter, instead of deciding the correctness of the interim order dated 13 September 2024 permitting Respondent No.1 to participate in the elections, it would be appropriate that Application (ICTU) No. 3 of 2024 is decided in an expeditious manner as directed by the Industrial Court in paragraph 3 of the operative part of order dated 13 September 2024.

7) I therefore do not find any valid ground to interfere in both the impugned orders. The Industrial Court is requested to expedite hearing of Application (ICTU) No. 3 of 2024 and to make an endeavour to decide the same as expeditiously as possible, preferably by 30 April 2025.

8) With the above directions, Writ Petition is **disposed of**.

[SANDEEP V. MARNE, J.]