
(2009) 06 BOM CK 0113
In the Bombay High Court
Case No : C.A.J.L.P.A. No. 84 of 2006

Hindustan Aeronautics Limited

APPELLANT

Vs

Nashik Workers Union

RESPONDENT

Date of Decision : 25-06-2009

Acts Referred:

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 — Section 2(3)

Citation : (2009) 123 FLR 398 : (2009) 4 LLJ 854

Hon'ble Judges : R.S. Mohite, J;D.K. Deshmukh, J

Bench : Division Bench

Advocate : P.K. Rele and Piyush Shah, for the Appellant; Bhavesh Parmar and Mihir Desai, for the Respondent

Judgement

1. By this appeal, the appellant challenges the order dated March 2, 2001 passed by the learned single Judge of this Court in Writ Petition No. 3562/1997. The relevant facts are that a complaint was filed before the Labour Court by Nashik Workers Union, a registered trade union under the MRTU & PULP Act which is the State legislation, seeking certain relief against the appellant. That complaint was disposed of by the Labour Court by its order dated August 8, 1994. The Labour Court held that the appellant is guilty of adopting unfair labour practice, directed the appellant to reinstate the employees whose names were mentioned in the annexure of the complaint with full back wages. That order was challenged in Revision before the Industrial Court. The Industrial Court dismissed the revision filed by the appellant. The order of the Industrial Court is dated July 8, 1997. Against the order of both, the Labour Court and the Industrial Court, Writ petition No. 3562/1997 was filed. That petition was disposed of by the learned single Judge of this Court by order dated March 2, 2001. The learned single Judge by his order set aside the order passed by the Labour Court and the Industrial Court. The learned single Judge though found in favour of the appellant on merits of the controversy, the learned single Judge negated the contention of the appellant that in relation to the appellant the appropriate

government was the Central Government and therefore, complaint under MRTU & PULP Act is not maintainable. The present appeal has been filed by the appellant challenging the findings recorded by the learned single Judge that in relation to the appellant, State Government is the appropriate government.

2. Learned Counsel for the appellant submits 3 Judges bench of the Supreme Court. By its order in Civil Appeal No. 3659/2002 dated July 8, 2002, in Hindustan Aeronautics Ltd. and Another Vs. Hindustan Aero Canteen K. Sangh and Others, , has held that the Central Government is the appropriate Government in relation to the appellant company. Learned Counsel submits that the Supreme Court has held Central Government to be appropriate government in relation to the appellant in relation to the provisions of Contract Labour (Regulation and Abolition) Act, 1970. He submits that the definition of the term appropriate Government under Contract Labour (Regulation and Abolition) Act 1970 is identical to the definition of the term appropriate Government found in Industrial Disputes Act. He submits that the same definition of the appropriate Government to be found in the Industrial Disputes Act has been adopted in MRTU & PULP Act. He therefore, submits that the learned single Judge could not have held that the State Government is the appropriate government in relation to the appellant company. He further submits that in recording the finding that Central Government is the appropriate Government, the Supreme Court has relied on Constitutional Bench judgment of itself in the case of Steel Authority of India Ltd. and Others etc. etc. Vs. National Union Water Front Workers and Others etc. etc., . He further submits that as the definition of the term appropriate Government found in the Industrial Disputes Act and the Contract Labour Act are identical, the learned single Judge could not have taken the view that under Industrial Disputes Act in relation to the appellant the appropriate Government is the State Government. He also placed on record the order of the Supreme Court in Civil Appeal No. 5655/2008 dated December 4, 2008 where the Supreme Court in relation to the proceeding under UP Industrial Disputes Act relying on its judgment in the case of Steel Authority of India v. National Union Waterfront Workers (supra) as also on the judgment in the case of appellant company Hindustan Aeronautics Ltd., has held that the appropriate government is the Central Government. The order of the Supreme Court reads as under:

The principle question which arises for consideration is as to whether the State of Uttar Pradesh was the appropriate Government for making a reference of the industrial dispute raised by the respondent Union. The question is no longer res integra in view of the Constitution Bench decision of this Court in Steel Authority of India Ltd and Ors. v. National Union Waterfront Workers and Ors. (supra) as also a three judge Bench decision of this Court in Hindustan Aeronautics Limited v. Hindustan Agro Ganteen K. Sangh and Ors. Civil Appeal 3659/2002.

In view of the afore-mentioned pronouncement of this Court, we are of the opinion that the high Court was not correct in refusing to interfere with the award of the Industrial Tribunal. We, therefore, set aside the impugned award as

also the judgment of the high Court leaving the merit of the matter open. All the remedies of the respondent indisputably shall remain open.

3. Learned Counsel submits that the definition of the term appropriate Government in the Industrial Disputes Act and the UP Industrial Disputes Act is identical. He submits that in view of the order of the Supreme Court debate is not possible on the question as to which is the appropriate Government in relation to the appellant company.

4. Learned Counsel for the respondents however took us through the Constitution Bench of the Supreme Court in the case of *Steel Authority of India v. National Union Waterfront Workers* (supra) and submitted that the Supreme Court in that judgment has indicated that in relation to the appellant State Government may be appropriate Government. After having gone through the judgments of the Supreme Court cited by both the parties, we find that in view of the order of the Supreme Court quoted above in Appeal No. 5655/2008 the question as to which government is the appropriate Government in relation to the appellant company is no more *res Integra* and we cannot permit any debate in that regard. The clear answer given by the Supreme Court to the question which is the appropriate Government for the purpose of the Industrial Disputes Act is that it is the Central government which is the appropriate government in relation to the appellant company. In this view of the matter therefore, in our opinion, the finding recorded by the learned single Judge in his order which is impugned in this appeal holding that the State government is the appropriate government in relation to the appellant company, in our opinion, has to be set aside. It is accordingly, set aside. Hence, in view of the provisions of Section 2(3) of the MRTU & PULP Act as the appropriate Government in relation to the appellant company is not the state Government, the provisions of the MRTU & PULP Act can not be applied in relation to the appellant and therefore, the complaint filed by the respondent against the appellant was not maintainable. The complaint therefore, is dismissed. Appeal stands disposed of with no order as to costs.

5. The appeal succeeds and is allowed. The finding recorded by the learned single Judge that the State Government is the appropriate government is set aside. It is held that the central Government is the appropriate government in relation to the appellant company.

6. In view of the order passed in Appeal No. 84/2006, Appeal No. 144/2002 does not survive as this appeal also challenges the same order of the learned single Judge which was challenged in Appeal No. 84/2006, and stands disposed of with no order as to costs.