
(1961) 09 BOM CK 0026

In the Bombay High Court

Case No : Miscellaneous Application No. 110 of 1961

Natarajan (T.R.) and Another

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 12-09-1961

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 12, 12(4), 2

Citation : (1962) 2 LLJ 321

Hon'ble Judges : K.K. Desai, J

Bench : Single Bench

Judgement

1. This is a petition under Art. 226 of the Constitution challenging the validity of an order dated 8 February, 1961, whereby the State Government held that there was no case for referring the dispute (which is referred to in this petition) for adjudication by an industrial tribunal. The order was made under the provisions of S. 12(4) of the Industrial Disputes Act, 1947.

2. It is unnecessary to refer to all the facts as mentioned in the pleadings in this case. The short facts leading to this petition are as follows :

The first petitioner is a workman employed with the Automobile Products of India, Ltd., being respondent 2. Petitioner 2 is a union of workmen. At all material times 302 workmen of respondent 2 company were members of petitioner 2 union. On 9 July, 1960, petitioner 2 submitted a charter of demands of the workmen to the respondent 2 company. In that connexion, petitioner 2 terminated a prior agreement dated 13 August, 1956, made between respondent 2 company and the Automobile Manufacturers' Employees' Union.

3. Before the demands made on 9 July 1960 by petitioner 2 union were referred to conciliation proceedings, the other union, viz., Automobile Manufacturers "Employees" Union made an agreement dated 30 July, 1960 under S. 2(p) of the Industrial Disputes Act, 1947, with respondent 2 company. Admittedly, on that date, 419 workmen of respondent 2 company were members of the Automobile

Manufacturers "Employees" Union. The total strength of workmen in that company was 1,228. Admittedly, the agreement dated 30 July, 1960 deals with several matters which were subject-matter of charter of demands submitted by petitioner 2 to the company.

4. The demands made on 9 July 1960 were admitted to conciliation proceedings on 17 September, 1960. The conciliation officer made his report to the State Government and by the impugned order dated 8 February, 1961, the demand for reference of these disputes under the Act was rejected. The relevant contents of the impugned order run as follows :

".... the Government has considered the report submitted by the conciliation officer, Bombay, under Sub-section (4) of S. 12 of the Industrial Disputes Act., 1947 (XIV of 1947), in respect of the dispute between Automobile Products of India, Ltd., Bombay, and the workmen employed under them and to inform you as required by Sub-section (5) of the said S. 12 that Government is satisfied that there is no case for referring the dispute for adjudication for the reason that an agreement was arrived at on 30 July, 1960 between Automobile Manufacturers" Employees" Association, Bombay, representing the majority of the workmen concerned and that all the workmen have accepted payments in accordance with the terms of the settlement without protest."

5. At the initial stage of the arguments in this petition, I called upon Mr. Phadnis for the petitioners to satisfy me as to why the reasons as mentioned in the above impugned order were not germane to the question of reference under Ss. 10 and 12 and were irrelevant for that purpose or as to why the reasons mentioned were extraneous and/or arbitrary.

6. It that connexion, he has sought to argue that the agreement made on 30 July, 1960, between respondent 2 company and the Automobile Manufactures" Employees" Union is not a valid agreement within the meaning of the Industrial Disputes Act. He has also sought to argue that the statement in the order that the above-referred union represented the majority of the workmen is not correct. He for the above reasons, contended that the Court is entitled to intervene in this matter.

7. I have not been able to appreciate the arguments advanced by Mr. Phadnis in this connexion. It is now well settled that it is not for this Court to interfere with refusal of the State Government to make a reference if the reasons given by the State Government for such refusal are germane or relevant to the question of reference and are not extraneous or arbitrary reasons. It is impossible for me in this writ petition to consider and make a finding regarding the validity or otherwise of the agreement made on 30 July, 1960, between the respondent 2 company and the Automobile Manufacturers" Employees" Union. It is impossible for me in this writ petition to try the question whether the above-referred union represented the views of the majority of the workmen of the company. On the contrary, this Court would, in connexion with the statements of facts made in the

order refusing a reference, proceed to decide all questions raised on the footing that such statements are correct. In regard to orders refusing reference this Court only considers the question whether the reasons mentioned by the Government are relevant and germane and not extraneous and arbitrary. As there is nothing in this petition to show that the reasons as mentioned in the impugned order are irrelevant and not germane and/or extraneous or arbitrary, the petition must fail.

8. The petition is accordingly dismissed with costs.