

(1997) 08 BOM CK 0051

In the Bombay High Court

Case No : Writ Petition No. 1035 of 1997

Richardson and Crudas (1972) Ltd.

APPELLANT

Vs

Association of Engineering Works and another

RESPONDENT

Date of Decision : 08-08-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 2
Trade Unions Act, 1926 — Section 32

Citation : (1998) 1 LLJ 346

Hon'ble Judges : R.M. Lodha, J

Bench : Single Bench

Judgement

1. Leave to amend the writ petition granted. Necessary Amendment be carried out forthwith.

2. The Petitioner seeks to contend that in relation to Petitioner company M/s. Richardson & Crudas (1972) Limited, the appropriate Government is the Central Government u/s 2(a) of the Industrial Disputes Act and, therefore, the proceedings against the Petitioner company under the Maharashtra Recognition of, Trade Unions and Prevention of Unfair Labour Practices Act, 1971 was not maintainable and complaint is liable to be dismissed on that ground alone. Since complaint is not maintainable according to the Petitioner the order passed by the Industrial Court on April 29, 1997 u/s 32 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices, Act, 1971 is not sustainable. In support of his contentions Mr. Kochar relied upon the order passed On June 23, 1997 in Writ Petitions and Crudas (1972) Limited v. Mr. G. S. Baj and Anr.

2. The learned counsel for Respondent No. 1 would urge that order passed by learned Single Judge on June 23, 1997 in W.P. 6458/95 has been challenged in LPA and, therefore, the order passed by the Industrial Court during the pendency of complaint cannot be said to be bad in law. The learned Counsel for Respondent No. 1 also submits that hearing of writ petition may be deferred in view of the LPA filed by the union against the order dated June 23, 1997.

3. In my view, on the face of the order dated June 23, 1997 passed by learned Single Judge in W.P. 6458/95, it is apparent that in relation to Petitioner company the appropriate Government is Central Government u/s 2(a) of the Industrial Disputes Act, 1947 and, therefore, the complaint filed under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 cannot be said to be maintainable. Merely because the union has challenged the order dated June 23, 1997 in L.P.A. the hearing of the present writ petition does not deserve to be deferred. In the order passed by the brother Srikrishna J. on June 23, 1997, reference has been made to the decision of the Apex Court in Air India Statutory Corporation, etc. Vs. United Labour Union and others [overruled], and also the provisions of the Richardson and Crudas Limited (Acquisition and Transfer of Undertaking) Act, 1972 and the memorandum of Articles of Association of the Petitioner Company and, I respectfully agree with the view taken by Srikrishna J. that Apex Court in Air India Statutory Corporation, in relation to the Petitioner Company the appropriate Government is Central Government. In this view of the matter, the complaint is not maintainable and therefore, the interim order passed by the Industrial Court cannot be maintained.

4. Consequently, the order dated April 29, 1997 is quashed and set aside. Rule is disposed of accordingly. No costs.

5. The learned counsel for Respondent No. 1 prays for stay of the order which I decline for the reasons aforesaid. Certified copy expedited.