

HIGH COURT OF GUJARAT

UNITED PHOSPHORUS LTD

Versus

KUMAR KHALODHA ASHOKKUMAR MAMBHI & OTHERS

Date of Decision: 06 June 2016

Citation: 2016 LawSuit(Guj) 801

Hon'ble Judges: [K M Thaker](#)

Case Type: Special Civil Application

Case No: 27026 of 2007

Subject: Labour and Industrial

Acts Referred:

[Industrial Disputes Act, 1947 Sec 33A, Sec 36](#)

Final Decision: Petition disposed

Advocates: [Nanavati Associates](#), [M S Mansuri](#)

K.M.Thaker, J.

[1] Heard Mr. Desai, learned advocate for the petitioner and Mr. Mansuri, learned advocate for the respondents.

[2] In present petition the petitioner company has prayed, inter alia, that:-

"9(B) Pending the hearing final disposal of this petition. Your Lordships may be pleased to stay the further proceedings in Complaint (IT) No. 58/06 pending before the Industrial Tribunal No.II, Vadodara."

2.1 After hearing parties the Court admitted the petition and granted ad-interim relief vide order dated 15.2.2008 which reads thus:-

"1. Learned advocate Mr.Joshi for Nanavati Associates on behalf of petitioner. Last three occasions, the respondent is not appearing in the present proceedings.

2. Though notice is served, no advocate is engaged by respondent and no appearance is filed by him.

3. I have considered the submissions made by learned advocate Mr.Joshi. The question involved in the present petition requires detailed examination. Hence, Rule.

4. Ad-interim relief in terms of Para.9(B). 5. Notice as to interim relief returnable on 13.3.2008."

2.2 The said order dated 15.2.2008 came to be confirmed vide order dated 15.9.2008 which reads thus:-

"The ad-interim relief granted earlier shall be continued till final disposal of this petition.

Office is directed to place this matter in the final hearing board."

2.3 The order dated 18.8.2007 passed by learned Industrial Tribunal at Vadodara below Exh. 10 in Complaint (IT) No. 58 of 2006 whereby the learned Industrial Tribunal disallowed the appearance of advocate on behalf of the petitioner is placed under challenge in present petition.

2.4 From the record it appears that the Union filed a complaint under Section 33A of the Industrial Disputes Act, 1947 (hereinafter referred to as the "ID Act") in a reference case which was pending at relevant time. The complaint was registered as Complaint No. 58 of 2006.

2.5 The learned Labour Court issued notice to the petitioner company to appear and contest the complaint No. 58 of 2006.

2.6 On receipt of the notice the petitioner company appeared through learned advocate and filed application exh. 10 seeking permission for appearance of the advocate in the said complaint no. 58 of 2006.

2.7 It appears that at the relevant time the Union, through its representative, opposed the appearance of learned advocate on behalf of the company.

2.8 Therefore, an objection under Section 36 of the Act was raised by the Union. Hence the company's application and union's objection were taken up for hearing.

2.9 Subsequently after hearing the parties learned Industrial Tribunal passed order dated 18.8.2007 below exh. 10 in the said complaint no. 58 of 2006 whereby the learned Court rejected the application exh. 10.

The effect of the order would be that the learned advocate would not be permitted to appear on behalf of the company.

2.9 Therefore, upon feeling aggrieved by the said order the company filed present petition.

[3] Today, at the time of hearing Mr. Mansuri, learned advocate for the respondent union submitted that the proceedings of the complaint have remained stayed in pursuance of the order dated 15.2.2008. He also submitted that the union is interested in prosecuting the complaint on merits and only with the said view in focus and to subserve the need for early hearing of the complaint the union is ready and willing to declare at this stage that it has no objection if the company is permitted to engage and be represented by learned advocate in the said complaint proceedings related to complaint no. 58 of 2006. He also fairly submitted that the union has no objection if the impugned order dated 18.8.2007 is set aside and the learned advocate is permitted to appear on behalf of the company in the said complaint No. 58 of 2006 however, appropriate direction may be passed so as to complete the complaint proceedings expeditiously.

[4] Mr. Desai, learned advocate for the petitioner submitted that the petitioner will cooperate in early hearing of the complaint proceedings and would abide by time limit which may be prescribed by the Court.

[5] Having regard to the above submission by the learned advocate for the petitioner and considering the fair stand taken by Mr. Mansuri, learned advocate for the union, following order is passed:-

The impugned dated 18.8.2007 passed by learned Industrial Tribunal at Vadodara below Exh. 10 in Complaint (IT) No. 58 of 2006 is hereby set aside.

The learned Tribunal will allow the learned advocate to appear on behalf of the opponent company in the proceedings / hearing related to said complaint No. 58 of 2006.

Within 15 days after the complaint proceedings are recommenced by the learned Tribunal the company, through its advocate, shall file its reply, if already not filed.

Within 01 week thereafter the parties shall place necessary documents on record and thereafter learned Tribunal will endeavour to complete the complaint proceedings as expeditiously as possible and preferably by 31.12.2016.

With the aforesaid clarifications the petition is disposed of. Rule is made absolute to the aforesaid extent.