

VEGETABLE VITAMIN FOODS EMPLOYEES UNION

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v.

SARVA SHRAMIK SANGH AND ORS.

SEPTEMBER 25, 2006

[DR. AR. LAKSHMANAN AND TARUN CHATTERJEE, JJ.]

B

*Labour laws:*

*Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act—Sections 11 and 12—Application for grant of recognition in 1988 and 2003—Remand of matter to Industrial Court in 2005, to consider if the Union had membership of not less than 30% of total number of employees in six months immediately prior to the month of filing of application—Enquiry would be conducted in 2006 and not in 1988 or 2003—Thus, direction by High Court modified and applications treated to be filed on 1.1.2006—Investigations to be conducted accordingly.*

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**Respondent no. 1 and the appellant filed application under section 11 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act for grant of recognition, in 1988 and 2003 respectively. High Court remanded the respondent's application to the Industrial Court in 2005 which was to consider whether respondent no. 1 had more than 30% of the employees as members in the six months immediately prior to 17.2.1988 and with regard to appellant's application, prior to 10.10.2003. The Industrial Court is to conduct the enquiry in 2006 and not in 1988 or 2003 and as such the same would create confusion. Hence the present appeal.**

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**Disposing of the appeal, the Court**

**HELD: The direction of the High court is modified to the extent that the Industrial Court will decide the application filed by respondent no.1 in 1988 and the appellant in 2003, treating the same to have been filed on 1.1.2006 and conduct the investigations required under section 12(2) read with section 11(1) of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act for the period of six months immediately preceding 1.1.2006 to determine the membership of the respondent as well as of the appellant. [635-B-D]**

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**A** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4256 of 2006.

From the Judgment and Final Order dated 23.12.2005 of the High Court of Judicature at Bombay in Writ Petition No. 2375/1993.

Ramesh Singh, Nikhil Goel and Sheela Goel for the Appellant.

**B** Bharat Sangal, P.V. Pavaskar, R.R. Kumar. Samyadip Chatterji, V. Pattanaik and Suchita Sharma for the Respondents.

The Judgment of the Court was delivered by

**C** **DR. AR. LAKSHMANAN, J.** Leave granted.

Heard learned counsel for both sides.

**D** The above appeal is limited to the direction of the High Court in the impugned judgment and order dt. 23.12.2005 whereby the High Court remanded application (MRTU) No. 8 of 1998 to the Industrial Court, Bombay for a fresh decision. It is submitted that as per Section 12 of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act (MRTU Act) on receipt of an application from a Union for recognition under Section 11 of the Industrial Court has to cause notice to be displayed on the notice board of the undertaking the date on which it intends to decide the said application. **E** Under Clause (2), the Court can hold an enquiry in the matter before deciding the application. Further under Section 11 Clause (1) any Union when it makes the application should have membership of not less than 30% of the total number of employees, for the whole of the period of six calendar months immediately preceding the calendar month of filing of application.

**F** In the instant case, respondent No.1 (Sarva Shramik Sangh) has filed an application No.8 of 1988 on 17.2.1988 for being granted recognition. Similarly, the appellant herein (Vegetable Vitamin Foods Employees Union) filed an application No.20 of 2003 on 10.10.2003 for being granted recognition. Under the impugned direction read with Section 11 of the MRTU Act, the Industrial **G** Court, on remand, will have to consider *vis-a-vis* the respondent No.1 whether it had more than 30% of the employees as members in the six months immediately prior to 17.2.1988. In the case of the appellant's application, it would have to consider whether the appellant had more than 30% of the employees as members in the six months immediately prior to 10.10.2003. This will clearly create confusion in the matter, especially as the enquiry to be **H**

conducted by the Industrial Court would be done in 2006 and not in 1988 or 2003. A

We, therefore, modify the impugned judgment of the High Court as under :-

“The direction of the High court in its impugned judgment and order dated 23.12.2005 passed in Writ Petition No.2375 of 1993 is modified to the extent that the Industrial Court will decide the Application (MRTU) No.8 of 1988 filed by the Sarva Shramik Sangh, respondent No.1 herein, as well as the Application (MRTU) No.20 of 2003 filed by the Vegetable Vitamins Foods Employees Union, petitioner herein, treating the two Application to have been filed on 1.1.2006 and after conducting the investigations required under Section 12 (2) read with Section 11 (1) of the MRTU Act for the period of six months immediately preceding 1.1.2006 to determine the membership of the Sarva Shramik Sangh as well as of the Vegetable Vitamins Foods Employees Union. The parties are at liberty to amend their respective Applications if so required. With the above modification the Special Leave Petition is disposed of.” B C D

Since the matter is pending for very long time, we direct the Industrial Court, Bombay to dispose of both the Application Nos.8 of 1988 and 20 of 2003 within three months from today. The appeal stands disposed of accordingly. There shall be no order as to costs. E

The Registry is directed to send a copy of this Judgment to the Industrial Court, Bombay immediately for information and necessary action.

N.J.

Appeal disposed of.