

CASE NO.:
Appeal (civil) 4256 of 2006

PETITIONER:
VEGETABLE VITAMIN FOODS EMPLOYEES UNION

RESPONDENT:
SARVA SHRAMIK SANGH & ORS.

DATE OF JUDGMENT: 25/09/2006

BENCH:
Dr.AR.LAKSHMANAN & TARUN CHATTERJEE

JUDGMENT:
J U D G M E N T
(Arising out of SLP(C) No.5755/2006)

Dr.AR.LAKSHMANAN, J.

Leave granted.

Heard learned counsel for both sides.

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. 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.

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

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."

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.

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

JUDIS