

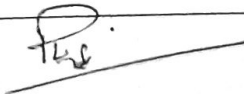
ORDER SHEET

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR(MP)**

**CASE NO. CGIT/LC/R-5-2017**

Union Vs. M/s Prism Cement

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
4-4-2022	<p>Taken up.</p> <p>Shri Uttam Maheshwari, Learned Counsel for the workman Union present.</p> <p>Shri Kuldeep Bhargava, learned counsel for the Management present.</p> <p>Learned counsel for the Management presses his preliminary objection and application in this respect. The workman side has filed a written reply to it.</p> <p>I have heard both the learned counsel and have gone through the record.</p> <p>The objection taken is that the Union, who has raised the dispute and has filed the statement of claim <del>which</del> in fact has no locus standi to pursue the reference because firstly, there is nothing to show that it is a registered Trade Union, secondly there is no resolution of the union filed before this Tribunal to pursue reference, thirdly that there is nothing on record to show that the employees for whom the union has filed claim are members of the union.</p>	



Another objection which has been taken from the side of the management is that the workman union has impleaded two contractors i.e. Shri Contractor and Balaji Engineering as respondent/OP whereas they are not a party to the reference and conciliation proceedings. There is a mis-joinder of parties.

The workman union has stated in its written reply that this a delaying tact taken by the management. The points raised are matter of fact to be proved by evidence and secondly that the two contractor impleaded in statement of claim are necessary for proper adjudication of the controversy.

Learned counsel for the Management has submitted the aforesaid points raised by him are regarding maintainability. He further submits that the since there is nothing to show that the union has any locus standi to pursue the reference, the reference should be answered against the workman union on this only.

Regarding the non-joinder of contractors, the learned counsel for the Management has submitted that since these contractors were never a party at any stage even during the conciliation proceedings, they cannot be made a party in the statement of claim. They are not a party in the reference order also and the provisions of Order 1 Rule 10 of CPC are not applicable to Industrial disputes.

Learned counsel for the Union has opposed this submission with an argument that since these contractors are necessary parties because without their presence, the reference cannot be answered fully and the dispute cannot be adjudicated properly. They should be allowed to be impleaded as respondents. Learned

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Counsel has relief to a Single Bench Judgment of High Court of M.P. in the case of Kohinoor Tobacco Company Vs. State of M.P. & Others passed in W.P.No.1900/2008 reported in Manu/MP/0946/2008 wherein an order of impleadment of persons not mentioned in the reference or conciliation proceedings by Labour court on the ground that these persons presence was necessary to effectively adjudicate the dispute was upheld with the following observation:-

"If it appears to the Tribunal that a party to the industrial dispute names in the order of the reference does not completely or adequately represent the interest either on the side of employer, or on the side of employee, it may direct that other persons should be joined who would be necessary to represent such interest. If the employer named in a reference does not fully represent the interests of the employer as such, other persons who are interested in the undertaking of the employer may be joined."

Though learned counsel for the Management has submitted that this decision does not apply to the case in hand but in the case in hand the contractors have been impleaded as party in the statement of claim for the first time. The Case of the management is that since they were nowhere present during the conciliation or in the reference, there is a mis-joinder of parties by impleading them in statement of claim directly. The proper course for the claimant Union would have been to seek a prayer for impleadment of these contractors and not filing statement of claim and directly impleading these contractors in their statement of claim, probably resolving this fact, the claimant union has moved an application for impleadment. Since these contractors are already impleaded in the statement of claim, now the only stage remains to frame an issue on this point as to



"Whether their joinder in the statement of claim is mis-joinder or not?" The contractors have put in their appearance ~~who also~~ are at liberty to raise the point that they have been wrongly impleaded and this matter cannot be looked into at this stage.

As regards, the claim of Management that there is nothing on record produced by the workman union to show that the locus standi to pursue the reference, it is also a matter of fact to be discussed on evidence. Parties may be called upon to file evidence with respect to their claims including their locus standi and their claims to rebuttal in defense. Hence this issue also appears to be a mix question of law and fact to be decided after evidence.

In the light of the above discussion, the preliminary objection raised by the Management are dis allowed.

The learned counsel for the management has filed an application directing the workman union to file its by laws , list of office bearers, list of members and other documents mentioned in this application to substantiate their locus standi.

Both the parties have been heard on this application also. I am of the view that this application stands disposed in the light of observations made earlier in this order. Naturally to prove their claim regarding locus standi, the workman union will have to file evidence failing which its locus standi cannot be held established.

The Management has also filed another application stating that minutes of the conciliation proceedings heard on 9-2-2016 reveal that union has specifically admitted that in view of Clause -8 of the settlement dated 29-7-2015, the Union shall withdraw their




demands for Wage Board Scale to the contract labour before the Deputy Labour Commissioner. A copy of the minutes of the meeting is not on file.

Learned Counsel has requested for time to file the copy of the minutes of the meeting which he may file after supplying a copy to the learned counsel for the workman Union.

The Management is also directed to file their written statement of defence with evidence and affidavit for its witnesses after supplying a copy to learned counsel for the workman within 4 weeks from today.

Learned counsel has informed that he has not yet received copy of statement of claim and documents. Learned Counsel for the workman Union under takes to supply it forthwith and is directed to do so accordingly within 3 days.

List on 11-7-22 for admission/denial.

  
(PRESIDING OFFICER)