# General Labour Union (Red Flag), Bombay vs Ahmedabad Mfg. & Calico Printing Co. ... on 8 September, 1993

## Equivalent citations: (1995)IILLJ765SC, 1995SUPP(1)SCC175, AIRONLINE 1993 SC 473

## Author: P.B. Sawant

## Bench: P.B. Sawant, Yogeshwar Dayal

ORDER

P.B. Sawant, J.

1. The appellant-union had filed a complaint before the Industrial Court under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (the 'Act') complaining of the breach of Items 1(a), (b), 4(a), (f) and 6 of Schedule II and Items 7, 9 and 10 of Schedule IV of the said Act. The case of the complainant-union was that the 21 workmen who were working in one of the canteens of the respondent-company, were not given the service conditions as were available to the other workmen of the company and there was also a threat of termination of their services. It is an admitted fact that these workmen were employed by a contractor who was given a contract to run the canteen in question. The com plaint, however, was filed on the footing that the workmen were the employees of the company and, therefore, the breach committed and the threats of retrenchments were cognizable by the Industrial Court under the said Act. Even in the complaint, there was no case made out that the workmen in question had ever been accepted by the company as its employees. However, the complaint proceeded on the basis as if the workmen were a part of the work-force of the company. The facts on record reveal that the workmen were never recognised by the respondent- company as its workmen and it was the consistent contention of the company that they were not its employees. The Industrial Court dismissed the complaint holding that since the workmen were not the workmen of the respondent-company, the complaint was not maintainable under the said Act. The High Court in writ petition confirmed the said finding and dismissed the petition also on the same ground. Hence the present appeal.

2. As pointed out both by the Industrial Court and the High Court, it was not established that the workmen in question were the workmen of the respondent-company. In the circumstances, no complaint could lie under the Act as is held by the two courts below. We, therefore, find nothing wrong in the decision impugned before us. The workmen have first to establish that they are the workmen of the respondent-company before they can file any complaint under the Act. Admittedly, this has not been done. It is open for the workmen to raise an appropriate industrial dispute in that

behalf if they are entitled to do so before they resort to the provisions of the present Act.

3. The appeals, therefore, stand dismissed with no order as to costs.