

**SUPREME COURT OF INDIA**

Indo Count Choongnam, Employees Union

Vs.

Registrar (Bombay Industrial Relation Act)

C.A.No.7244 of 2003

(Markandey Katju and H.L.Dattu JJ.)

05.05.2009

**ORDER**

1. Heard learned counsel for the parties.

2. This appeal is directed against the judgment and order dated 03.12.2002 of a Division Bench of the High Court of Gujarat at Ahmedabad. The facts in detail have been mentioned in the impugned judgment and hence we need not repeat the same here.

3. The short question in this appeal is whether in an appeal under Section 20 of the *Bombay Industrial Relations Act, 1946* (hereinafter for short "the Act") while canceling the registration of the appellants-Employees Union the Industrial Court could direct registration of respondent No. 2 union.

4. Under Section 13 of the Act, if any union wants registration, it has to make an application to the Registrar. Hence, in our opinion, registration to a Union-A cannot be granted in an appeal before the Industrial Court, where the question is about validity of the registration of Union-B. The union seeking registration must make its own application.

5. Learned counsel for the respondent has referred to Section 20(3) of the Act, which reads as under:-

“20. Appeal to Industrial Court from order of Registrar:-

(1) x x x xx x xxx xx

(2) x x x xx x xxx xx

(3) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.”

6. In our opinion, the aforesaid provision has no application to the present case. An order granting registration to a union which has not filed an application under Section 13 of the Act, but which has filed an appeal under Section 20(3) challenging the registration granted to another union cannot be passed under the said provision. By the said provision, the order passed by the Registrar can only be confirmed, modified or rescinded by the Industrial Court, and such consequential orders may be passed as may be deemed fit by the Industrial Court. In our view the provision cannot be interpreted to mean that while the Industrial Court could have canceled the registration of the appellant-employees union, it could by the same order direct registration of another employees union.

7. We are informed that the factory to which the appellant-employees union was attached has since been closed.

8. In the above facts and circumstances, we set aside that part of the impugned order dated 03.12.2002 whereby the respondent No. 2 union has been granted registration.

9. Appeal stands disposed of in the above terms. No order as to costs.