

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4704 of 1996

with

SPECIAL CIVIL APPLICATION No 4705 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?  
1 to 5 NO

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GENERAL SECRETARY/VADODARA KAMDAR UNION

Versus

ABHINAV SERVICES PVT LTD  
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Appearance:

1. Special Civil Application No. 4704 & 4705 of 1996  
MR RD RAVAL for Petitioner No. 1  
NANAVATI ASSOCIATES for Respondent No. 1  
MR SP HASURKAR AGP for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 28/10/2004

ORAL JUDGEMENT

1. Both these petitions under Article 226 of the Constitution having called into question identical orders of the Conciliation Officer, Vadodara rejecting the application of the petitioner under sub-section (4) of Section 33 of the Industrial Disputes Act, 1947 ("the Act" in brief) involving common issue were heard together and are disposed by this common judgment.

2. The impugned order appears to have been rendered upon the application having been made by the petitioner as the representative of the workmen upon a dispute having arisen between the employer, i.e. the respondent No.1 and the trade union, in respect of recognition of certain workmen as "protected workmen" under the provisions of Section 33 of the Act and Rule 66 of the Industrial Disputes (Gujarat) Rules, 1966 ("the Rules" for short). It clearly transpires from the impugned order itself that, while the petitioner claimed that the communication for names of the officers of the trade union to be recognized as "protected workmen" was dated 18.9.1995, the objection of the respondent-employer was that the aforesaid demand was not received before 30th September of the relevant year as prescribed by Rule 66 (1) of the above Rules. The Conciliation Officer had rejected the reference and the application of the petitioner only on the ground that the demand of the petitioner was not in accordance with the provisions of sub-section (4) of Section 33 of the Act. The respondent-employer has filed an affidavit and categorically stated on oath that the letter dated 18.9.1995 of the petitioner-union was received by the respondent-company during the month of October, 1995 and the respondent company had not received any communication before 30th September as was required under Rule 66 (1) of the Rules. Therefore, it clearly appears that the impugned orders were legal and justified on facts and no interference in exercise of the powers under Article 226 of the Constitution was called for. Even otherwise, the petitions have become infructuous. The petitions are accordingly rejected and Rule in each of the petitions is discharged with no order as to costs.

Sd/-

( D.H.Waghela, J.)

(KMG Thilake)