

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**Civil Writ Petition No.16228 of 2002 (O&M)**

**Date of decision : 07.10.2014**

**All Escorts Employees Union**

**.....Petitioner**

**versus**

**State of Haryana and others**

**.....Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. R. Kartikya, Advocate,  
for the petitioner.

Mr. C.S. Bakhshi, Addl. A.G., Haryana.

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**RITU BAHRI, J.**

Challenge in this petition is to the order dated 28.08.2002 (Annexure P-9) passed by respondent Nos. 2 and 3, whereby proposed amendment in the Constitution of the petitioner has been rejected.

The petitioner is a registered union having registration No.75 and its registered office is situated at 29, Shaheed (Neelam Chowk), Faridabad. This union is duly recognized by the Escorts Group of Industries. Petitioner-union has its own constitution, duly approved by the Registrar of Trade Unions-cum-Labour Commissioner, Haryana-respondent No.2. Relevant provisions with regard to membership of the union are reproduced as under:-

**"4. Membership**

Any workers who is employed in any Escorts concern at Faridabad and agrees to follow the rules and regulation of the Union can become a member after filing the membership form and by paying the membership fee monthly or annually. Any member who leaves the job

***For Subsequent orders see LPA-568-2015***

of any of Escorts concern at Faridabad will be ceased to be the member of the Union.”

The constitution of the petitioner-union was amended in the General Body meeting held on 13.07.1992 (Annexure P-1) and was duly approved by the Registrar Trade Union, Haryana.

Earlier, the shares of Yamaha Motor Escorts Ltd. (YMEL) were shared between Yamaha Motor Company, Japan and Escorts Ltd. In the year 2001, the Yamaha Motor Company acquired 100% shares and thereafter, a new structured company namely Yamaha Motor India (P) Ltd. (YMI) came into existence. As a consequence of the above, two plants of Yamaha i.e. one at Noida-Dadri Road, Surajpur (Gaziabad) and the other at Mathura Road, Faridabad, went out of control of the Escorts Group. All the employees of these two plants were taken over by Yamaha Motor Company India (P) Ltd. Vide notice dated 23.06.2001 (Annexure P-2), all the employees were informed as under:-

- “(i) They had ceased to be the members of the All Escorts Union as the newly constituted company Yamaha Motor India (P) Ltd. is not connected in any way directly or indirectly with the Escorts Group.
- (ii) They can constitute Internal Union as per prevalent labour law.”

Thereafter, the All Escorts Employees Union held a General Body meeting on 16.06.2001 (Annexure P-3), whereby it was resolved that Clause IV of the Constitution providing for “Membership” be amended so as to include the workers of such industrial units, which were originally established by Escorts. Consequently, the petitioner made an application dated 25.06.2001 (Annexure P-4) to respondent Nos. 2 and 3 to register the aforesaid amendment in Clause 4 of the

Constitution providing for membership of the union. The relevant extract of the proposed amendment is as under:-

“Membership

Any workman who is employed in any of the Industry originally established by the Escorts Group and agrees to follow the rules, regulation and objectives of the Union can become a member after depositing the requisite subscription fee. His membership would stand cancel upon his retirement from the Industry or upon his submitting the registration.

Clarification

The change of name of an Industry established by the Escorts Group or change of management would not effect the membership of the Union.”

Subsequently, Yamaha Motor Escorts Ltd. again issued notice dated 07.07.2001 (Annexure P-5) to its workers. The petitioner gave its reply vide letter dated 29.11.2001 (Annexure P-6) and made a request that more than five months had elapsed from the date of applying for registration of the amendment, hence the matter might be expedited. The Deputy Labour Commissioner, Faridabad, vide letter dated 23.05.2002 (Annexure P-7) informed the petitioner that the Industrial Dispute raised by the petitioner qua the workmen of M/s Yamaha Motor India (P) Ltd. was not maintainable, hence the demand notice was declined. The petitioner-union has referred to an agreement dated 21.08.2002 (Annexure P-8) entered into between the petitioner and Yamaha Motor India (P) Ltd. Finally, vide order dated 28.08.2002 (Annexure P-9), the Additional Registrar-cum-Joint Labour Commissioner, dismissed the application of the petitioner for accepting the amendment of Rule/Clause 4 of the Constitution. This order is under challenge in this petition.

As per the stand taken by the respondents in their written statement, the petitioner-union was registered in the year 1968. The Constitution of the petitioner-union was in Hindi and as per the English version (Annexure R/1-T), the relevant Rule 4 of the same is reproduced as under:-

“4. **Membership-** Any workman employed in Escorts Group of Industries giving in writing of his faith in the objects of the union and assuring to remain in discipline, can become a member of the union after paying the prescribed subscription. The membership would terminate automatically on leaving the group.”

Vide application dated 25.06.2001 (Annexure P-4), the petitioner-union applied for amending aforesaid Rule 4 by substituting the same to the following effect:-

“4. **Membership-** Any workman employed in an industry originally established by the Escorts Group of Industries giving in writing of his faith in the objects of the union and assuring to remain in discipline, can become a member of the union after paying the prescribed subscription. The membership shall terminate on lawful retirement or on resignation.

**Explanation-** The membership shall not be affected due to change of name of the industry established by the Escorts Group of Industries or transfer of management.”

If the language of Rule 4 of the Constitution is compared with one reproduced in the writ petition, it is apparent that the last line has not been correctly reproduced. The proposed amendment, which is sought by the petitioner vide Annexure P-4, contains a provision that the membership shall terminate on lawful retirement or on resignation. The amendment was examined by the authority in view of the provisions contained in Clauses (g) & (h) of Section 2 and Clause (e) of Section 6 of the Trade Unions Act, 1926 (for short 'the Act'). The above provisions

of the Act lay down that for forming a union, there have to be a minimum of common interests between the persons forming such union and it is mandatory that the Constitution/Rules of the union must provide for certain specified matters. The ordinary members of a union have to be the persons actually engaged or employed in an industry. It has been further submitted that since August, 2001, the Escorts Group of Industries has totally ceased to have any concern with the motorcycle manufacturing. The ownership and management of motorcycle manufacturing unit is now of Yamaha Motor Company, Japan, named in India as Yamaha Motor India Private Limited. There is no common interest with the workers of Escorts Group of Industries.

The petitioner-union has not chosen to file any replication, therefore, the difference in the language of Clause 4 i.e. Membership has not been explained.

The question to be examined by this Court would be, as to 'who would be the member of the petitioner-union, which got registered in the year 1968'.

As per definition of Annexure R/1-T, any workman employed in Escorts Group of Industries can become a member of the union after paying the prescribed subscription. The membership would automatically terminate on leaving the group. Therefore, the obvious conclusion is that in the year 2001 when Yamaha Motor Company took over 100% shares of its joint venture, where Yamaha Motor Company and Escorts Ltd. had equal shares, the control of Escorts Group ceased and Yamaha Motor Company took over 100% control over the two unions. Therefore, as per

existing Rule 4 of Constitution of the petitioner, the membership stood terminated automatically on leaving the group. The proposed amendment, as per Annexure R/1-T, intended to include those workmen, who were members of the industries, originally established by Escorts Group of Industries and the membership would terminate on lawful retirement or on resignation. This proposal has been examined in detail by the Additional Registrar while passing the impugned order dated 28.08.2002 (Annexure P-9). In the proposed amendment, a clarification has also been mentioned that the membership shall not be affected due to change of name of the industry established by the Escorts Group of Industries or transfer of management. As per Section 2 (g) of the Act, the term "trade dispute" means a dispute between workmen and management of the industry and Clause (h) defines the term "trade union", which means the combination of workmen formed primarily for the purpose of regulating the relations of workmen with the employer and the workmen inter se. These two clauses, if read together, contain a meaning that there must be a commonness of interests of the members of a trade union. Once 100% share of the joint venture have been taken over by Yamaha Motor Company, the workers who were associated with the petitioner-union could not be stated to have any dispute with the management of that industry i.e. Escorts Group of Industries. Petitioner-union, after taking over management by Yamaha Motor Company, cannot be said to have any common interest with the employers. Hence, Section 2 (g) and (h) cannot be applied in favour of the petitioner-union.

Moreover, as per Section 6 (e) of the Act, the Constitution

should provide admission for ordinary members, who shall be persons actually engaged or employed in an industry with which, the trade union is connected. When an application for amendment of Rule 4 of the Constitution was made, the segregation of two companies had already taken place. The unit, which used to manufacture two wheeler motorcycles under the brand name of 'Yamaha', segregated from the Escorts Group of Industries and had become a 100% subsidiary of 'Yamaha Motor Company, Japan." Since August, 2001, the Escorts Group of Industries has totally ceased to have any concern with the motorcycle manufacturing. After August, 2001, the Escorts Group of Industries has not been manufacturing motorcycles. The workers working in the motorcycle manufacturing unit have, thus, legally ceased to be the members of the petitioner-union as per existing Rule 4 off the Constitution. Now, they do not have any commonness of interests with the workers of Escorts Group of Industries.

In the light of the above discussion, this Court is of the view that the proposed amendment has rightly been declined by the competent authorities.

Resultantly, the writ petition is dismissed.

**(RITU BAHRI)  
JUDGE**

07.10.2014  
ajp