

All India Siemens Employees Union,
a Trade Union registered under the
Trade Union's Act, 1926, having its
Office at C/o. Siemens Ltd.,
Kalwe Works, Post Box 85,
Thane Belapur Road, Thane – 400 601. ...Petitioner

Versus

1. Siemens Workers Union, a Trade Union Registered under Trade Union' Act, 1926 having its Office at Gautam Arcade, Basement No.1, Raut Road, Near Daulat Nagar, Kopri Village, Thane (East) – 400 602.
2. Siemens Ltd., a Company registered under Companies Act, 1956, having its factory at Kalwe Works, Post Box 85, Thane-Belapur Road, Thane – 400 601

Ms. Suvarna Joshi a/w Mr. Ritik Gupta, Advocate for Respondent No.1.

Mr. Sushant Anaokar i/by Mr. P.N. Anaokar, Advocate for Respondent No.2.

CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.

RESERVED ON : 20th SEPTEMBER, 2025

PRONOUNCED ON : 26th SEPTEMBER, 2025

JUDGMENT :- (PER : RAVINDRA V. GHUGE, J.)

1. This matter was admitted by an order dated 5th April, 2006, which reads as under :-

“1. Rule. Place the matter for interim relief after notices are served.”

2. On 20th July, 2007, this Court observed in its order that a finding of fact has been recorded by the Industrial Court that Respondent No.1 has a majority membership. Therefore, interim relief was refused.

3. On 2nd September, 2025, since the Advocates as well as the parties were not present, in the Court hall or even through the VC mode, though the matter was listed under the caption of ‘Prioritised Cases’, we adjourned the matter to 20th September 2025, for passing orders.

4. On 20th September 2025, we had passed the following order :-

“1. The learned Advocate for the Petitioner is not present in the Court, as well as, through the video conferencing mode. This Petition is of 2006, which was adjourned on 2nd September, 2025, with the following order :-

- “1. None present for either of the parties.*
- 2. Since this matter is listed under the caption of ‘Prioritised Cases, stand over to 20th September, 2025 for passing orders.’”*
- 2. Today, in the absence of the Petitioner and it’s advocate, the learned Advocates appearing on behalf of Respondent Nos.1 and 2, have declined to argue. We called upon them to commence their submissions. The learned Advocate for Respondent No.1 submitted that she is instructed, but her Vakalatnama is not filed.*
- 3. Such lame excuses, in a matter which is 20 years old, cannot be countenanced. This matter, already listed in the prioritised cases list, is repeatedly adjourned.*
- 4. Hence, we would decide the matter by considering the record before us.*
- 5. Closed for Judgment.”*

FACTUAL BACK GROUND

5. Respondent No.1, Union (hereinafter referred to as the Applicant/Union) filed Application (MRTU) no. 21 of 1994, under Section 11 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as ‘MRTU and ‘PULP’ Act, 1971), on 8th August 1994, before the Industrial Court, seeking a Certificate of Recognized Union.

6. The present Petitioner (hereinafter referred to as the Petitioner/Union, which is the Non-Applicant no.1), tendered its preliminary written statement opposing the application of the Applicant/Union contending that the Petitioner/Union has majority membership. A preliminary objection to the maintainability of the Application was raised vide the said written statement, dated 16th September, 1994.

7. Respondent No.2, Company (hereinafter referred to as the Company) filed its written statement on 16th September, 1994, adopting a neutral stand. It informed the Court that the Petitioner/Union represents the staff category. The employees in the undertaking form a unionized category sub-divided into the staff, service staff and workmen categories. Further details were set out in the written statement and it was pointed out that a settlement dated 12th June, 1992 was signed with the Applicant/Union representing the workmen category. The Petitioner/Union representing the staff category had signed an agreement dated 4th November, 1992 with the Company. Further details were set out with regard to the various establishments and the representation of the workmen and the staff category. Finally, it was averred that the Industrial Court may

examine the claim of the Applicant/Union in the light of the facts and circumstances narrated in the written statement.

8. The Petitioner/Union then tendered a detailed written statement in October, 1995, praying that the Applicant/Union had faced a new election on 23rd April, 1993 and it needs to be investigated, as to whether the election was legal, valid and proper. The said election was subject matter of challenge in Application (ICTU) No.1 of 1994, after a consent certificate was issued and until the said proceedings are adjudicated upon, the application for recognition should be kept pending. It was then prayed that the Petitioner/Union should be granted recognition in the Application filed by the Applicant/Union, instead of granting recognition to the Applicant/Union.

9. Under the order of the Industrial Court, the Investigating Officer ('I.O.') of the Industrial Court, Thane, was directed to submit an investigation report after verifying the membership and records of both the Unions. The I.O. informed the Industrial Court that the verification of the membership record of the Applicant/Union was complete. However, the Applicant/Union

took objection while carrying out the verification of membership of the Petitioner/Union. By the said report dated 19th February 1996, the I.O. prayed for an order from the Industrial Court regarding verification of membership record of the Petitioner/Union. By an order dated 22nd March, 1996, the Industrial Court directed the I.O. to complete the verification exercise within ten days, latest by 10th April, 1996.

10. The I.O. tendered a detailed report on 29th August, 1996. It was stated in the report that they were several common members, members whose membership had ceased, as well as invalid members of the Applicant/Union. 1298 employees are considered as valid members of the Petitioner/Union. For ready reference, we are reproducing Paragraph No.31 of the report of the I.O., hereunder :-

“31. After verification of employees of the Applicant Union and Non-Applicant Union during the relevant period shown in the list of members submitted by the applicant and non-applicant union, it is found that besides common Member s/ ceased members and invalid members of the applicant union and 1298 employees are considered as valid members of the Non-applicant union, details are given in Annexure A,B & C.”

11. Both the Unions moved applications before the Industrial Court, questioning the report. An order was passed on 20th September, 1996 and the Company was directed to provide a suitable separate cabin to the I.O. to investigate into the common membership by interrogating the common members personally, in the absence of the representatives of the Union or the Company. In pursuance to the said order, in a charged atmosphere wherein there was a Police Bandobast, the I.O. tried to conduct the interrogation on 28th September, 1996 at 8:30 p.m. He interrogated 447 members. He found the majority of such workers to be under great tension, fear and pressure as some of them have stated that they were members of both the Unions and while signing the forms, they requested the I.O. to delete their names from the Petitioner/Union. Several workers conveyed to the I.O. that they do not intend to be interrogated. Retired workmen, who were sick and could not walk, were also named in the common membership list.

12. Finally, the I.O. drew his conclusions after interrogation of about 447 common members, as under :-

1. 186 Workmen have stated that they were members of the Applicant Union and paid member-ship subscription for the relevant period and they have

given relevant information, hence, they are treated as Valid Members of the Applicant Union.

2. 40 workmen have stated tat they were members of the Non-Applicant Union and paid membership subscription for the relevant period and they have given relevant information, hence, they are treated as Valid Members of the Non Applicant Union.

3. 45 workmen have stated that they were members of the Applicant Union as well as Non-Applicant Union and paid membership subscription during the relevant period.

4. 16 workmen have stated at the begining that they were members of the Applicant Union as well as Non-Applicant Union and subsequently, at the time of signing forms, they have requested to delete the names of Non-Applicant Union and when asked the reasons, they have stated that they do not desire to disclose the membership.

5. 8 workmen have stated that they have retired and they could not remember regarding the subscription paid to the Applicant Union, hence, they are treated as Invalid Members.

6. 2 employees have stated that they were the members of Non-Applicant Union. However, they could not remember the subscription amount paid for the relevant period. Hence, in the absence of relevant information, they are treated as Invalid Members of the Non-Applicant Union.

7. 150 Workmen have given only the name of Applicant Union in the interrogation form, but they have seated that, they do not remember and not in a position to tell as to whether they have paid subscription to the Applicant Union during the relevant period. Some of them have also stated that they have paid Rs. 15, Rs. 6 and Rs. 28, hence, in the absence of

relevant information regarding membership, they are treated as Invalid Members.

In view of the previous Report dated 29.8.96 submitted by me and after having interrogated, Common Members of the Applicant Union and Non-Applicant Union, the position regarding membership is as under:

1. Valid Members of the Applicant Union :

<i>1. Originally Valid Members</i>	<i>1112</i>
<i>2. Valid Members in interrogation</i>	<i><u>186</u></i>
<i>Total Members :</i>	<i><u>1298</u></i>

2. Valid Membership of Non-Applicant Union :

<i>1. Originally Valid Members</i>	<i>1298</i>
<i>2. Valid Members in interrogation</i>	<i><u>40</u></i>
<i>Total Members :</i>	<i><u>1338</u></i>

13. Under fresh orders of the Industrial Court dated 10th March, 2004, considering the huge controversy between the two Unions, the Junior Investigating Officer carried out the verification of the membership of both the Unions in great details. After a painstaking exercise, he submitted his report (date not mentioned on the typed copy of the 16 Pages report) and drew conclusions below Paragraph No.7, as under :-

7. Taking into consideration, above calculations and facts the Applicant Union gained 1170 members out of 2961 which are working in the N.A. No.1 Company and Non-Applicant Union No.2 gained 1140 members out of 2961. It is to be valid members of Applicant Union which exams. 39.51 and valid members of Non-Applicant Union is 38.50". There are no 1176 members of either of the Unions. The

over-laping membership has been ignored as per Hon'ble Supreme Court's Judgement cited in 1990 II CLR page 344, in Civil Appeal Nos. 1597 – 98 of 1988 between Automobile Product of India Employee's Union V/s. Association of Engg. Workers (Para 20).

The Non-Applicant Company filed their list of workers monthwise i.e. for the relevant period Feb. 1994 to July 1994. With consent of the parties, I decided to verify the membership for the month of July 1994 which shall be considered for all the six months i.e. for the relevant period w.e.f. Feb. 1994 to July 1994. None of the Unions are objected for the same in orally or writting during the verification. Hence, the above-said calculations be treated for the relevant period i.e. Feb.1994 to July 1994.

In the light of above information & facts the Report is submitted accordingly.”

14. Both the parties led exhaustive oral evidence in the light of the voluminous documents filed. The Industrial Court, after final arguments were advanced, delivered the impugned Judgment dated 24th November, 2005. The following issues were cast by the Industrial Court, as under :-

	<u>POINTS</u>	<u>FINDINGS</u>
1.	<i>Whether the applicant proves that it is complying with the statutory conditions provides u/s 11 and 19 of the MRTU AND PULP ACT, and has been entitled to get a certificate of recognition from this Court, as envisaged under subsection (2) of section 12 of the MRTU AND PULP ACT, 1971.</i>	YES

2.	<i>Whether the non applicant union proves that it has largest membership of the employees employed by the non applicant company, in its Kalwa undertaking and complying with the provisions u/s 11 and 19, therefore, becomes entitled to get recognition certificate as envisaged u/s 12 (3) of the MRTU & PULP ACT?</i>	<i>NO</i>
3.	<i>What order ?</i>	<i>Applications stands allowed</i>

15. The Industrial Court has recorded in its reasons that the said litigation has been protracted for 11 years. As per Section 11(2) of the MRTU and PULP Act, 1971, such an application ideally has to be decided within three months. It was also recorded by the Court that rarely such a case occurs when the Petitioner/Union resorted to launching a ‘War of Attrition’ against the Applicant/Union. The rivalry between the two Unions resulted in the abuse of the process of law, which needs to be deprecated.

16. In such matters, while considering the various provisions of the MRTU and PULP Act, 1971, the following contingencies required for seeking recognition, are to be satisfied.

A] The Applicant/Union should not indulge in resorting to a strike, which amounts to a deemed illegal strike within six months

preceding the month in which the application for recognition is filed.

B] The membership of the Union should not be less than 30% of the total employees employed in the undertaking for which the recognition is sought, in the six calendar months immediately preceding the calendar month in which the application is filed.

C] The membership subscription should not be less than 50 paisa per month, the Executive Committee should meet at intervals not more than three months, all the resolutions passed by the Executive Committee or by the General Body of the Applicant/Union should be recorded in a minute book and an auditor appointed by the State Government should audit its account at least once in a year.

These requirements are prescribed in Section 19 of the MRTU and PULP Act, 1971.

17. Between the two rival Unions, the Industrial Court has to find out as to who has a majority of the workmen as its members, but not below 30% of the total workmen working in the Company. The Union having the largest majority and which complies with the requirements under Sections 11 and 19 of the MRTU and PULP Act,

1971, can be granted recognition. If a Non-Applicant/Union has such majority, its claim for recognition could be considered.

18. The Industrial Court has then analyzed the entire oral and documentary evidence. The claim of the Applicant/Union was for seeking recognition with reference to the Kalwa Plant. In an extensive Judgment containing sound reasons and appreciation of the evidence, the Industrial Court has analyzed the oral and documentary evidence, threadbare. From Paragraph No.9 onwards until Paragraph No.41, the Industrial Court has taken great efforts in analyzing the oral and documentary evidence in the light of the submissions of the learned Advocates. Even the voluminous record containing receipt books, membership books, registers, etc., have been gone into in great depth. It concluded that the Applicant/Union has more than 30% (i.e. more than 888 members) of the membership of 2961 employees, the majority membership. The payment of subscriptions by the workers was also analyzed by the Industrial Court by adverting to the records pertaining to collection of subscription of the Union membership.

19. The Industrial Court has also considered the oral

evidence of the witnesses on behalf of both the Unions, in the light of the documentary evidence placed on record and the contents of the documents proved in evidence. Having conclusively recorded that the Applicant/Union has the majority membership over a period of six months preceding the month in which the application was filed, the Court concluded that the Applicant Siemens Workers Union deserves to be granted certificate of recognition with reference to the undertaking at Kalwa. By the impugned Judgment dated 24th November, 2005, the Industrial Court granted recognition to the Applicant/Union.

20. In view of the above and having perused the oral and documentary evidence analyzed by the Industrial Court in its extensive Judgment, we do not think that the said Judgment could be termed as being perverse or erroneous. The conclusions are supported by sound reasons, which are legal, fair and proper.

21. **This Writ Petition is, therefore, dismissed.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)