

Government of West Bengal  
Labour Department, I. R. Branch

N. S. Building, 12<sup>th</sup> Floor, 1, K. S. Roy Road, Kolkata – 700001

No. Labr/ 181 / (LC-IR)/ 22015(16)/29/2025

Date : 10/02/25


**ORDER**

WHEREAS an industrial dispute existed between (1) M/s. A.R.C. Insulation & Insulators Pvt. Ltd., Office and Factory at Vill. – Ramdebpur, Dist. South 24-Parganas, West Bengal, Pin 743399, (2) Shri Monish Bajoria, the Managing Director, M/s. A.R.C. Insulation & Insulators Private Limited, residing at South City Apartment, Tower – 1, Flat-25B, 375, Prince Anwar Shah Road, Kolkata – 700068 & (3) Shri Debashish Dasgupta, the Deputy Labour Commissioner, for South 24 Parganas, at Kolkata, Government of West Bengal, New Secretariat Building, Block-A, 1, Kiran Shankar Roy Road, 11th Floor, Kolkata – 700001 and their workman Shri Bibhas Sardar alias “Bivas”, General Secretary of Workmen Trade Union namely “ARC” Insulation & Insulators Pvt. Ltd. Permanent Shramik Sangha” (Bharatiya Mazdoor Sangha), residing at Vill. Angarbaria, P.O. Nayajari, Via, Joka, P.S. Bishnupur, Dist. South 24-Parganas, West Bengal, Kolkata – 700104, regarding the issues, being a matter specified in the second schedule to the Industrial Dispute Act, 1947 (14 of 1947);

AND WHEREAS the 8<sup>th</sup> Industrial Tribunal, Kolkata has submitted to the State Government its Award dated 30.01.2025 in Case No. 07/2016 on the said Industrial Dispute Vide e-mail dated 31.01.2025 in compliance of u/s 10(2A) of the I.D. Act, 1947.

NOW, THEREFORE, in pursuance of the provisions of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Governor is pleased hereby to publish the said Award in the Labour Department’s official website i.e - **wblabour.gov.in**

By order of the Governor,

  
Assistant Secretary


to the Government of West Bengal

No. Labr/ 181 / 1(7)/(LC-IR)/ 22015(16)/29/2025

Date : 10/02/25

Copy with a copy of the Award forwarded for information and necessary action to :-

1. M/s. A.R.C. Insulation & Insulators Pvt. Ltd., Office and Factory at Vill. – Ramdebpur, Dist. South 24-Parganas, West Bengal, Pin 743399.
2. Shri Monish Bajoria, the Managing Director, M/s. A.R.C. Insulation & Insulators Private Limited, residing at South City Apartment, Tower – 1, Flat-25B, 375, Prince Anwar Shah Road, Kolkata – 700068.
3. Shri Debashish Dasgupta, the Deputy Labour Commissioner, for South 24 Parganas, at Kolkata, Government of West Bengal, New Secretariat Building, Block-A, 1, Kiran Shankar Roy Road, 11th Floor, Kolkata – 700001.
4. Shri Bibhas Sardar, General Secretary of Workmen Trade Union namely “ARC” Insulation & Insulators Pvt. Ltd. Permanent Shramik Sangha” (Bharatiya Mazdoor Sangha), residing at Vill. Angarbaria, P.O. Nayajari, Via, Joka, P.S. Bishnupur, Dist. South 24-Parganas, West Bengal, Kolkata – 700104.
5. The Asstt. Labour Commissioner, W.B. In-Charge, Labour Gazette.
6. The OSD & EO Labour Commissioner, W.B., New Secretariat Building, 11<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata – 700001.
7. The Deputy Secretary, IT Cell, Labour Department, with the request to cast the Award in the Department’s website.


  
Assistant Secretary

No. Labr/ 181 / 2(3)/(LC-IR)/ 22015(16)/29/2025

Date : 10/02/25

Copy forwarded for information to :-

1. The Judge, 8<sup>th</sup> Industrial Tribunal, N. S. Building, 1, K.S. Roy Road, Kolkata – 700001 with respect to his e-mail dated 31.01.2025.
2. The Joint Labour Commissioner (Statistics), West Bengal, 6, Church Lane, Kolkata – 700001.
3. Office Copy.

  
Assistant Secretary

In the matter of an industrial dispute filed by Shri Bibhas Sardar alias “Bivas”, General Secretary of Workmen Trade Union namely “ARC” Insulation & Insulators Pvt. Ltd. Permanent Shramik Sangha” (Bharatiya Mazdoor Sangha), residing at Vill. Angarbaria, P.O. Nayajari, Via, Joka, P.S. Bishnupur, Dist. South 24-Parganas, West Bengal, Kolkata – 700 104 against 1) M/s. A.R.C. Insulation & Insulators Pvt. Ltd., Office and Factory at Vill. – Ramdebpur, Dist. South 24-Parganas, West Bengal, Pin 743399. 2) Shri Monish Bajoria, the Managing Director, M/s. A.R.C. Insolation & Insulators Private Limited, residing at South City Apartment, Tower – 1, Flat-25B, 375, Prince Anwar Shah Road, Kolkata -700 068, 3) Shri Debashish Dasgupta, the Deputy Labour Commissioner, for South 24 Parganas, at Kolkata, Government of West Bengal, New Secretariat Building, Block-A, 1, Kiran Shankar Roy Road, 11<sup>th</sup> Floor, Kolkata -700 001.

( Case No. 07/2016 U/s. 10(1B)(d) of the I.D. Act, 1947

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**Before the Eighth Industrial Tribunal: West Bengal**

**Present Sri Amit Chattopadhyay**

**Judge,**

**Eighth Industrial Tribunal,**

**West Bengal.**

**A W A R D**

**Dated: 30.01.2025**

An industrial dispute filed by Shri Bibhas Sardar alias “Bivas”, General Secretary of Workmen Trade Union namely “ARC” Insulation & Insulators Pvt. Ltd. Permanent Shramik Sangha” (Bharatiya Mazdoor Sangha), residing at Vill. Angarbaria, P.O. Nayajari, Via, Joka, P.S. Bishnupur, Dist. South 24-Parganas, West Bengal, Kolkata – 700 104 against 1) M/s. A.R.C. Insulation & Insulators Pvt. Ltd., Office and Factory at Vill. – Ramdebpur, Dist. South 24-Parganas, West Bengal, Pin 743399. 2) Shri Monish Bajoria, the Managing Director, M/s. A.R.C. Insolation & Insulators Private Limited, residing at South City Apartment, Tower – 1, Flat-25B, 375, Prince Anwar Shah Road, Kolkata -700 068, 3) Shri Debashish Dasgupta, the Deputy Labour Commissioner, for South 24 Parganas, at Kolkata, Government of West Bengal, New Secretariat Building, Block-A, 1, Kiran Shankar Roy Road, 11<sup>th</sup> Floor, Kolkata -700 001 Bearing case No. 07/2016 U/s. 10(1B)(d) of the Industrial Disputes Act, 1947 on the basis of both the written statements this Tribunal has framed the following issues on 27.12.2016 for the purpose of adjudication of the case.

**I S S U E (S)**

Is the case maintainable in the present position of law?

Whether the workman / Trade Union workmen are entitled to get their “Charter of Demands” as placed before the management of the Company?

To what other relief or reliefs is there to which the workmen / union entitled to?

**Brief fact of the case is that :**

The applicant contended that initially i.e. since 1997 the O/P company was a Proprietorship Firm, manufacturing insulting materials and Mr. Manish Bajoria, Proprietor of M/s. ARC Insulation and insulators, having their business at 5, Bara Shibhala Main Road, KMC Ward no. 18, P.S. Behala, Kolkata – 700 038. At

the later stage i.e. in the year 2008 the management of the company incorporated as M/s. A.R.C. Insulation and Insulators Private Limited under Companies Act, 1956, having their works at Village – Ramdebpur, District – South 24 Parganas, W.B. – 743 384 and their registered office at South City Apartment, T-1, Flat Nos. 258, 375, PA, Saha Road, Kolkata – 700068.

On 01.09.2014, it is alleged that due to continuous deprivation, victimization and degradation of the existing workman, the said workmen constrained to formed Trade Union under the name and style of A.R.C. Insulation and Insulators Pvt. Ltd. permanent Shramik Sangha (Bharatiya Mazdoor Sangha).

On 07.05.2015, 20 points Charter of Demands issued by their secretary of workman Trade Union, addressed to the Managing Director Mr. Monish Bhajoria of Opposite Party No. 2 of the said company, which was duly received of 09.05.2015 by them. However, the Management of the said company did not take any positive steps to settle the disputes.

Thereafter, the General Secretary of the said Trade Union Sri Bibhas Sardar alias 'Bivas' raised on Industrial Dispute of 20 (twenty) points of Charter of Demands dated 18.05.2015 under section 12 and 10 of I.D. Act, 1947 before the Deputy Labour Commissioner for South 24 Parganas at Kolkata – 700 001, to settle the said dispute, tripartite.

It is further contended that on 15.10.2015 and 03.11.2015 the said General Secretary with other leaders of the said workman Trade Union, personally met with the Deputy Labour Commissioner of South 24 Parganas, the Opposite Party No. 3 to discuss the status report of the said Industrial Dispute case of 'Charter of Demands dated 18.08.2015 'after lapse of 82 days, the said O/P No. 3 as he did not proceed (as alleged) with the conciliation proceedings by registering the case no. and as and when the trade union leaders asked reasons behind non-proceedings the industrial dispute, the Deputy Labour Commissioner, O/P No. 3 become furious and threatened those Trade Union Leaders with dire consequences, however, no findings have been recorded in respect of the aforesaid aspect of the matter.

On 04.11.2015 Shri Monish Bajaria, Managing Director of the said Company suddenly issued Show Cause Notice against the General Secretary of the said union as why he (Bibhas Sardar) was absent on 03.11.2015. Thereafter Sri Bibhas Sardar, the General Secretary of the workman trade union with the Deputy Labour

Commissioner on 23.11.2015 in prescribed Form P-4 for issuance of a Certificate of Pendency of Conciliation proceedings of the said Industrial Dispute Matter, which has not been settled by the said authority (O/P No. 3).

It is further alleged by the said applicant on 31.12.2015 and 07.01.2016 in collusion and connivance with the Deputy Labour Commissioner (O/P No. 3) the management of the said company, wrongfully and illegally dismissed / terminated three (3) permanent workmen namely Sri Bibhas Sardar, on and from 31.12.2015 by refusing his leave application dated 20.12.2015 and thereafter Shri Noor Nabi Gharami, Sri Gopal Jana and Mintu Molla on and from 07.01.2016 by way of Refusal of Employment to achieve unfair Labour Practice of the said company.

On 08.01.2015 the General Secretary of the said workman Trade Union served a Demand of Justice Representation / Letter dated 08.01.2016, which was duly received by the said company, whereupon the workman prayed for immediate Resumption of their usual duties along with arrears wages/ salaries of these (3) punitive workman, namely Shri Bibhas Sardar, Shri Noor Nabi Gharami and Shri Gopal Jana, but in vain, hence this application. On the other hand the Opposite Party denied and disputed each and every allegations, specially the applicant Shri Bibhas Sardar alias Bivas (on ex-employee) representing the alleged union (APC Insulation and Insulators) Pvt. Ltd. Permanent Shramik Sangha was not known and/or not recognized by the Opposite Party in their Factory. The Opposite Party contended that they have not more than 20 permanent employees and due to financial constraints and global recession, they have no regular orders at their hand to increase their productions. The applicant Sri Bibhas Sardar alias Bivas' an ex-employee of the Opposite Party who resigned the services of the O/P Company on 02.01.2016 and was duly accepted by the management of Opposite Party, the full and final settlement was done, as he had a very bad track/ service record during his stay with the O/P Company was charge sheeted for his various misconducts, so the said applicant threatened the company's representatives/ management to take revenue and would made the company close down by his own efforts. Since then he tried to create troubles to the O/P Management and also threatened with dire consequences. In this respect several diaries/ FIR have been lodged in different police stations (specially at Bishnupur P.S.).

As such the said applicant has fabricated the story in the instant case by submitting false documents/ applications/ diaries/

papers, as there is/was no such things received by us, moreover as regard diary made by the said applicant at Bishnupur P.S. has no relevancy with the instant case. It is contended that the said applicant who is self made secretary of the said alleged union, is taking revenge with the Opposite Party Company as the management did not entertain his illegal and unjustified demands for his personal gain and finally he along with a section of ex-employees of the said Opposite Party Company tried to create troubles. The said applicant came to such extent that on 07.01.2016 he along with a section of workmen stopped production and threatened the management of Opposite Party Company that they will not allow to run the company without fulfilling his unjustified and unlawful demands. The management took it exception and decided to accept their mass resignation which was submitted on 14.01.2016 by them. Thereafter, the Management called an extra ordinary general meeting on 20.01.2016 and it was unanimously decided by the management to accept their mass resignation and discontinuation of their service. However, the management gave a last opportunity to join their duties by way of given notice dated 22.01.2016 but in vain.

The applicant Sri Bibhas Sardar alias 'Bivas' along with Sri Noor Nabi Gharami and Sri Gopal Jana as mentioned in the said petition had a very bad record during their services with the said Opposite Party Company for example Nurnabi Gharami had a serious allegation against him as he misbehaved/ used abusive languages with the director and other members of the said Opposite Party company but due to his unconditional apology the management took a lenient view to reinstate him as a fresh workman and allowed him to join his duties.

As regard Sri Gopal Jana he had also done mischief and several misconducts during his services with the said Opposite Party Company including his involvement in a theft case which he admitted and prayed for his reinstatement with the Opposite Party company.

The said Applicant along with some other ex-employee have created trouble during period of 13.03.2014 to 25.03.2014 and due to their violent attitude hooliganism and distortion of Opposite Party Companies records / registered a police case has been logged against those ex-employees who were involved in it i.e. on 20.03.2014, consequent upon that an order was passed by the Judicial Magistrate in Case No. JM-4848/14 which is on record.

The applicant Union submitted that the opposite party company had throughout the proceedings had objected to the jurisdiction of the Tribunal on the ground that all the 11 workmen were not members of the Union and raised a new ground viz. Lack of a resolution. There was no law which required a resolution to be passed. The existence or non-existence of an Industrial dispute would vary according to the circumstances of each case. All such facts and circumstances in the instant case showed the Union had the authority to espouse the cause of all the 11 (eleven) workmen. The Ld. Advocate for the opposite party (O/P) urged that there was no Industrial Dispute of the date of the reference made by the Govt. of West Bengal, Labour Department dated 2016 and as such the Union had no locus standi to represent or espouse the cause of the said alleged 9/11 dismissed employees of the opposite party company. The Ld. Advocate for the O/P company's main argument was that there was no resolution of the Union to take up the cause on behalf of the said 9/11 dismissed employees of the O/P Company, who were admittedly not member of the Union at the date of the reference or at any time and secondly, no individual member has referred the dispute or authorized the Union to represent them before this Tribunal, it became incumbent on the said Union to show that there was any resolution to the general body of its member or any individual workman whose disputes were referred, authorized the Union to espouse the cause before the Tribunal in the absence of such authorization or resolution, the Union had no locus standi before this Tribunal and the provisions of section 2A has no application in this case as the order of reference does not relate to the same. The Ld. Advocate strongly relied on a divisional bench decision of the Madras High Court in the *Kandan Textile Ld. Vs. The Industrial Tribunal, Madras and others*.

A.I.R. 1951 Madras 616, where a writ petition for quashing the Award of the Tribunal was asked for inter alia on the ground of lack of authority of Union to represent the workman before the Tribunal.

Now applying the said principles to the facts of this case it appears that from the very beginning the O/P. Company, that is the management contended that the Union (applicant) had no authority to represent all dismissed workman of the O/P company. That was the stand of the O/P company at the conciliation proceeding and also before this Tribunal to which the alleged industrial dispute was referred u/s. 10(l) of the Industrial disputes Act by the State Government.

That considering the above submissions and the materials on record of the instant case the issue No.1 is in favour of the opposite party company. Thus, case is not maintainable in the present position of law.

The opposite party Company contended that the said Applicant and so called Union Representative Sri Bibhas (Secretary) initiated an Industrial dispute regarding chartered of demand at the office of Labour Commissioner Govt. of West Bengal (O/P No.3). However they did not appear a single day for the conciliation proceeding before the appropriate authority whereas the O/P Company (ARC) attended all the dates of hearing as and when asked by the conciliation Officer Sri Chandrachur Pan, Assistant Labour Commissioner) since the modus operandy of the said so-called Union was nugatory, the conciliation authority (O/P No.3) was compelled to pass an ex-parte order against the so-called Union.

The Ld. Advocate of O/P. company urged that as the said company was facing huge financial loss and continuous disturbances by their own workmen in connivance with the outsiders the O/P Company could not supply materials in time to their valuable customers, the company was compelled to retrench some of their Union Workmen and not dismissed/terminate their workmen, However when the said Applicants submitted their mass resignation before the O/P company, it was accepted by the management of the O/P company. It is needless to point out that under the industrial disputes Act it is mandatory that for the purpose of effecting Legal Retrenchment, the Principle of last cum first go has to be followed absolutely, no findings have been recorded in respect of their aforesaid aspect of the matter except the statement of the O/P company that due to acute financial loss they were compelled to retrench some of the Junior workman to save their organization.

During the cross examination of PW-3 Noor Navi Gharami on 11/04/2018, he admitted that in the year 2014 there was a Strike in the O/P Company for their unfair labour practice (alleged) which continued for 12 days. Thereafter, a meeting was held with the management of the company. I was present in that meeting alongwith me, Mintu Molla, Bibhas Sardar and 2/3 others were also present in that meeting."

In view of the aforesaid statement of PW3 (Noor Nabi Gharami) it reveals that the executives of the so-called Union have participated in the said meeting for settlement of disputes raised by them. The said Bipartite Settlement was done on 28<sup>th</sup> March, 2014 between the said workmen and the management of O/P Company. In the said settlement both parties agreed on various issues which is an

admitted fact. However, during the period of settlement, the so called Union sent a 20 (twenty) point charter of Demand to the O/P Company and demanded for its early settlement, ignoring the existing settlement, which is not fair, reasonable in the eye of law.

It is too well settled law that the object of a settlement is to ensure peace at-least for the specified period. In this contest, the Supreme Court has clarified that during the settlement period between the employer and the Employees/Workman with or without through Union on an issue, the parties concerned cannot raise any demand or an Industrial Dispute. The Supreme Court ruled that the Legal Position is that clearing the subsistence of a settlement, it is not open to any of the parties to raise a dispute or demand. Once the two parties reached a settlement, it should be operative until the settlement is terminated as preceded under Sec. 19 of the Industrial Dispute Act.

M/s. National Textile Corporation (APKKM) Limited Vs. Sree Vellamma Cotton Woolen and Silk Mills Staff Association, 2001 (88)F I R 936, LLR195(SC).

The Ld. Advocate of Opposite Party further urged that during the strike period i.e. from 13.03.14 to 25.03.14 the works of Opposite Party was at halt and no production was done, resulting huge loss and financial constrains arised and hampered entire business of Opposite Party. Not only that the workmen of so called Union became so violent that they physically assaulted Sri Pronoy Mondal one of the senior staff of Opposite Party on 15.03.14, which is an admitted fact (PW1 Cross Examination). The incident was happened during the strike period (13.3.14 to 25.3.14). A Police complain was made at the local Police Station and a Criminal Case was filed in the Court of Ld. Judicial Magistrate at Alipore, Kolkata.

The Industrial Tribunals or Labour Court has to exercise its power within the parameters which has been laid down by the Supreme Court and the High Courts and have not to Show misplaced sympathy in settling aside the dismissal at its whims and fancies. It is pertinent to refer to one case wherein, it has been held by the Punjab and Hariyana High Court hat the Labour Court grossly erred in settling aside the punishment of dismissal of a workman guilty of riotous behavior in awarding reinstatement without back wages, since reinstatement will send wrongly signals to the other workers. It was further held that when a workman is guilty of riotous behavior for assaulting his superior by given blows, abusing and threatening him with death his dismissal was the only

punishment which could curb such indiscipline and serve an eye opener to the other workman to be disciplined.

Automotors Ltd., -Vs- State of Hariyana and Others 2003 (98) FIR 9247 2003 LLR 869 (P and H – S.C.)

Therefore, considering the above submissions containing the materials on record and exhibited documents of the instant case by the Opposite Party the Issue No. 2 & 3 is also not in favour of the workmen as the statements of P.W1, PW2, PW3 and PW4 have no relevancy and controversial to each other.

Accordingly all the issues are disposed of.

Hence, it is

### **O R D E R E D**

That the instant case is **Dismissed** against the Applicant, Bivas Sardar Secretary of the Union without any order as to cost.

Accordingly, this case is disposed off on contest and this order is to be treated as an Award of this Tribunal.

Let the necessary number of copies of this judgment and award be sent to the Secretary, to the Government of West Bengal, Labour Department, New Secretariat Building, 12<sup>th</sup> Floor, 1No. Kiran Sankar Roy Road, Kolkata-700 001.

Dictated & Corrected by me

Judge

(Amit Chattopadhyay)  
Judge  
Eighth Industrial Tribunal  
Kolkata  
30.01.2025

GOVERNMENT OF WEST BENGAL  
DIRECTORATE OF INDUSTRIAL TRIBUNALS  
NEW SECRETARIAT BUILDINGS  
BLOCK – 'A', 2<sup>ND</sup> FLOOR  
1, KIRAN SANKAR ROY ROAD  
KOLKATA – 700001

**No. Dte/8<sup>th</sup>I.T/003//2025**

**Dated, 30.01.2025**

From: Shri Amit Chattopadhyay Judge,  
Eighth Industrial Tribunal,  
Govt. of West Bengal,  
New Secretariat Buildings,  
Kolkata – 700 001.

To : The Secretary ,  
Govt. of West Bengal,  
Labour Department,  
New Secretariat Buildings, 12<sup>th</sup> Floor,  
1, Kiran Sankar Roy Road,  
Kolkata – 700 001.

Sir,

I am sending The PDF (portable Document Format) copy of the Award passed in the matter of an industrial dispute between M/s. ARC Insulation & Insulator Pvt. Ltd. & others and Workman Sri Bivas Sardar **[Case No. 07/2016 u/s10 1(B) (d) of the I.D. Act, 1947]** for information and necessary action.

Encl: As stated above.

Sd-  
Yours faithfully,  
(Amit Chattopadhyay)

Judge,  
8<sup>th</sup> Industrial Tribunal,  
Kolkata  
Dated 30.01.2025