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**INDEX**

<b>S.NO.</b>	<b>Particulars</b>	<b>Page No.</b>
1.	General demand notice regarding Intentional Continuation of Lock-out	1-9
2.	List of Annexure	10
A.	Annexure-1- List of workers working in M/s. Viva Global	11-15
B.	Annexure-2- List of 102 workers lock-out by the company	16-18
C.	Annexure-3- Copy of demand notice	19-21
D.	Annexure-4- Copy of the order of the High Court	22-23
E.	Annexure-5- List of 42 workers whose lock-out was lifted	24-25
F.	Annexure-6- List of 27 workers on probation	26
G.	Annexure-7- List of 9 workers on contract	27
F.	Annexure-8- List of 4 workers suspended by the management	28
G.	Annexure-9- Copy of agreement draft	29-31
H.	Annexure 10- Copy of injury reports	32-43

14/9/11

Present today in  
Machinist court  
for dt. 29/9/11

Before the Honourable Labour cum Conciliation Officer  
Mini Secretariat, Rajiv Chowk  
Gurgaon, Haryana

HHC

14/9/11  
20

To,  
The Management  
M/s Viva Global  
Plot No. 413, Phase-III,  
Udyog Vihar, Gurgaon,  
Haryana

Nagendra & others  
Vs.  
Viva Global

**Subject: - General Demand Notice under Industrial Disputes Act, 1947**  
**section 2K regarding Intentional Continuation of Lock-out of its workmen**

**Statement of Justification**

1. That the workers whose names appear in the list annexed here as 'Annexure-1' have been employed at M/s. Viva Global, Plot No. 413, Phase-III, Udyog Vihar, Gurgaon, Haryana.
2. That the management of the aforesaid company had been continuously violating the labour laws and in this regard the workers had sent several complaints and representations to the management as well as to the labour department from July 2010. Workers and workers' representatives had met with the management's representatives including the Director Mr. Vipin Vohra many times requesting him to ensure that the company complies with labour laws, but they did not respond positively to their requests and representations.

- 123
3. That a collective complaint had been given by the workers of M/s. Viva Global to conciliation officer, Gurgaon, against the management of the company stating the violations of labour laws in the company premises, dated 14 July 2010 (Annexure-1)
  4. That the workers representatives had attempted many times to redress the dispute in conciliation but the management had not only denied settling the matter but also intentionally and forcefully locked out the workers on 25 August 2010. This illegal lock out in the company was for those workers who are associated with Garment and Allied Workers Union. List of workers who were locked out by the company management is annexed here as 'Annexure-2'.
  5. That the company management had neither informed the Labour department about aforementioned lock out nor taken prior permission from the department. Even they had not given any notice to workmen about the lock-out. The management had locked-out workers with vengeance, during the process of an ongoing tripartite negotiation and before implementing the settlement reached between the management and workers on a negotiation that took place on 23<sup>rd</sup> August 2010 in the presence of the labour officer. (The details of the proceedings are available with the labour officer).
  6. That the management of the company has violated the principles of mutually agreed understanding in the conciliation proceedings in presence of and under instructions of labour officer Mr. Suresh Yadav related to unconditional reinstatement of all workers on 25<sup>th</sup> August 2010. Instead, innocent workmen were attacked by the management supported professional goons and henchmen, when workers were trying to enter the company premises to perform their duty according to the direction of labour officer. Workers were attacked by them with canes and hockey sticks without any provocation. During the attack, women workers were not even spared and brutally beaten up and goons even tore their clothing in the day light. These hired goons and henchmen of the company also

abducted a workmen named Anwar Ansari and kept him in their custody for more than 14 hours and beat him badly. Only after the intervention of DCP, Gurgaon, Mr. Anwar was released by the goons with threat of dire consequences.

7. That the management had locked-out workers to compel them to leave Garment and Allied Workers Union and also to suppress workmen's genuine, legitimate and legal demands.
8. That the management had neither paid earned wages for the month of August 2010 nor any compensation while workers have been locked-out.
9. The management had restrained the workers from entering the factory premises and the workers were not allowed to resume normal work in the factory, which is against the statutory law and is a lock-out under section 2L of The Industrial Disputes Act, 1947. This lock-out was imposed by the company in the course of conciliation proceeding and in violation of the understanding reached in presence of the conciliation officer to restore industrial peace and hence it is illegal under section (23)(a), (23)(c) and Section (24) of Industrial Disputes Act, 1947. Then the workers had given a demand notice 'Annexure-3' to the management of the company against their unjustified action of illegal lock-out through the Garment and Allied Workers Union under section 2L of the Industrial Disputes Act, 1947 demanding that the illegal and unjustified lock-out be lifted immediately.
10. That the workers working in the factory of Viva Global were having no other source of income except the employment in the factory. Therefore the Garment and Allied Workers Union have sent representations dated 06.09.2010 and 14.09.2010 to the Labour Commissioner, Gurgaon, Assistant Labour Commissioner, Gurgaon and the General Manager of Viva Global for lifting the illegal lock-out but no authority has taken any action with respect to lifting the above said illegal lock-out.

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11. That in view of in-action on the part of the labour department, the Garment and Allied Workers Union was compelled to file a writ petition with the High Court of Chandigarh on 20<sup>th</sup> September 2010 through advocates R.S. Bains, Ashdeep Singh and Mandeep Kaur. On 7<sup>th</sup> March 2011, the single bench of Hon'ble Justice Mr. Mahesh Grover had ordered the labour department to fully and finally resolve the dispute in three weeks from the date of decision. The High Court order directed the Deputy Labor Commissioner to resolve the case within three weeks of March 7, 2011, the demand notice (annexed here as 'Annexure-3') - the DLC had accepted to the Hon'ble Justice Mr. Mahesh Grover in the High Court of Punjab and Haryana, Chandigarh, that she would consider this annexure to be the demand notice and would pass an order in accordance with the law. The order of the High court is annexed herewith as Annexure-4.

12. That after the order of the High Court, conciliation meetings took place on 11<sup>th</sup> March, 21<sup>st</sup> March, 29<sup>th</sup> March, 5<sup>th</sup> April, 26<sup>th</sup> April and 2<sup>nd</sup> May 2011. The company, after long delay and subsequent to the order of the High Court and in course of conciliation proceedings, was persuaded to lift the lock-out for only 42 workers whose list is annexed herewith as Annexure-5; rather the Garment and Allied Workers Union has submitted a list of 102 workers who were locked-out by the management. The management pleaded that 20 workers had taken their full and final dues and therefore not eligible for reinstatement. But the management had not provided any proof for this full and final settlement. The Company has refused to lift the lock-out of remaining 40 workers giving fictitious grounds about the status of such workmen and categorized them in three different basis:-

- a) 27 Workers as working on probation-(Annexure-6)
- b) 9 Workers as working on contract-(Annexure-7)
- c) 4 Workers as suspended by the management-(Annexure-8)

But the management had neither provided any such proof nor reason of suspension and nor could they justify procedure of suspension and probation.

- (2)
13. That after long conciliation process in the presence of Deputy Labour Commissioner, Ms. Lamba, forty-two workers were allowed to join the company on 9th May 2011 but the company management had no intention of giving them proper duty and maintain peaceful atmosphere in the company. The management failed to provide work to these workers since they did not have any order from buyers or any alternative arrangements for work.
  14. That the company management started regular harassment of the workers in the shop floor in various ways. Garment and Allied Workers Union had complained about the ill-treatment of workers by the company management to the labour office. The management had even threatened workers with taking their lives and the threatened workers were forced to file complaint with Udyog Vihar Police station, Gurgaon. The management appointed a lady guard with the intention of harassing and abusing women workers. The lady guard used to follow women workers from shop floor to the toilet; verbally abused them and shouted at them on the shop floor. She used to threaten women workers with beatings and killings. There was incident of management spy waiting for women workers in the women's toilet with the intention of scaring workers of possible rapes and subsequently the company started suspending workers in groups citing misbehavior as the reason without following any proper legal procedure.
  15. That the company made a plea that it was not able to secure orders from buyers because their reputation in market had been damaged due to the international attention on their violation of labour laws. Though, the company management has complained to the labour department about tool-down in the company, the fact is that there was no work assigned to the workers and the management had accepted this fact even to the labour officer during the conciliation process initiated by the labour officer Mr. Suresh Yadav during the complaint of tool down by the management. Then before the conciliation officer, on the request of the management, Garment and Allied Workers Union agreed to begin on an agreement to restore the company's reputation in the international market to

attract orders to Viva Global. The GAWU was willing to work on agreement with the management which would work as a precondition for a joint communication from the management and GAWU to the international community to get orders to Viva Global. GAWU was interested in Viva Global staying active in business since it was the source of livelihood of GAWU members. Then both parties i.e. management and union were preparing a draft agreement for the settlement. These negotiation meetings happened in the conciliation office and the Labour Officer Mr. Suresh Yadav was involved in the procedure. In that agreement, the union agreed to communicate to buyers the willingness of M/s. Viva Global to comply properly with labour laws and respect freedom of association, if the company management agreed and put in place effective mechanism to ensure the compliance of Indian labour laws and international labour standards.

16. That both parties agreed on most of the issues and there were a few differences between the parties. To settle these few differences GAWU was trying its best on the agreement procedure. Copy of drafted agreement which has been submitted to Labour Officer Mr. Suresh Yadav is annexed here as Annexure-9.
  
17. That during the negotiation process, the management was negotiating with GAWU in bad faith. While HR Manager Mr. Sharma and Mohan Dimri were busy with negotiation with GAWU, their abettors such as Mr. Munchun and the lady guard were busy harassing workers in Viva Global. That the understanding before the Conciliation Officer on 9th May, 2011 for partial lifting of lock-out were entered not with good faith or clean intention and was just a fraudulent cover up to evade the liability and consequences of illegal and unjustified lock-out, and subsequently intentionally suspended workers one by one. On dated 21.05.2011 workers Nagendra Singh and Dharam Pal were called by Mohan Dimri in his cabin. He threatened them of 'physically harming them.' A complaint has been filed with Udyog Vihar Police station in this regard. The same incident happened with worker Anwar Ansari and it is also reported to local police station. On the same date Anwar Ansari was illegally suspended by the management without any



(1)

notice/charge sheet. No suspension allowance has been paid to any of these suspended workers till date; and no notice regarding domestic inquiry has been sent to the workers. So this suspension was totally illegal and unjustified.

18. That on 23.05.2011 worker Abhay Kumar was suspended in the same way. Worker Nagendra singh, Kanchan Kumari and Dharam Pal were suspended on 25.05.2011. None of them were served any notice; they have not been paid any suspension allowance, so their suspensions were also illegal and unjustified.
19. That women workers were mentally harassed by the management. The management denied workers their right to casual and sick leave. Whenever workers asked for leave, management denied. When workers returned from permitted leave, management refused to take them on duty, forced them to stand outside the gate for hours in the sun, forced them to give 'mafi nama'.
20. That when the negotiations were going on for an agreement between the management and the GAWU before the conciliation officer, the management was also simultaneously in a planned and intentional manner suspending workers one by one, in retaliation.
21. That on 28<sup>th</sup> June 2011, the management did not come for the negotiation meeting which the management had agreed with GAWU at Mini Secretariat in Gurgaon, instead engaged in violence on the shop floor. Women workers were brutally beaten up and attacked by the lady guard on management's direction with stick and knife. Management had locked the company main gate during the incident so that no worker could escape the violence. Mr. Shrama supplied the lady guard with stick and knife to attack workers. Women workers were injured during this violence and the injury reports are annexed here as Annexure-10. This has been reported to the Udyog Vihar Police Station, Gurgaon. Manager Mahesh Sharma threatened to workers that "if you come again to the factory premises, then consequences will be dire and you will be responsible for that." And thus the management locked out the rest of the reinstated workers on 28<sup>th</sup> June 2011.

22. That the management has not paid earned wages for the month of June 2010 yet and also has not paid suspension allowance and compensation while workers have been locked-out.

23. That it is clear that company management had no intention of peaceful running of the company when they allowed the workers to resume duty on 09<sup>th</sup> May 2011. The management had all intention of locking out workers through various fraudulent means while pretending to be resolving issues through negotiation with GAWU. Hence the management was only continuing the original lock out which began on 25<sup>th</sup> August 2011.

Demands

In view of the above facts and submission, it is demanded that

1. That the company lift the illegal, unfair and unjustified lock-out imposed against workers, as listed in annexure on August 25, 2010 and pay back full wages for the period of lockout from 25/8/2010 till it is fully lifted.
2. That the company pay suspension allowance to all suspended workers as per the section 10 A of the Industrial Employment (Standing Orders) Act, 1946 and resolve the matter of suspension immediately.
3. That the company pay earned wages as per section 3 of the Payment of Wages Act, 1936, to all the workmen who have worked for the month of August 2010 and June 2011 and whose wages are yet to be paid.
4. That the company bears medical expenses of workers due to attacks on women workers.

Date:

Applicants

निदेश सिंह  
Sulkr

Note: Five copies submitted before Labour cum Conciliation Officer

Through,  
A.R. Vikash Barnwal/Retu Singh/Anannya Bhattacharjee  
Rao Maichand Complex, Plot No. 1,  
In front of Military Station,  
Old Delhi Gurgaon Road,  
Gurgaon, Haryana

others signatures are attached  
with authority letter

(10) (11)

GARMENT AND ALLIED WORKERS UNION  
Plot No 413, First Floor, Opposite: Main Gate 2,  
Old Delhi-Gurgaon Road, Gurgaon, Haryana  
Phone: 0124-4311478

14 July 2010

*Annexure - 1*

8-10 Gurgaon

To

The Conciliation Officer

Mini Secretariat

Gurgaon, Haryana

In the matter of: Workmen of Viva Global, Plot No 413, Phase III, Udyog Vihar,  
Gurgaon

**Subject: Collective complaint against the management of Viva Global**

Respected Sir,

It is respectfully submitted:

1. That the management of Viva Global has not yet provided ESI and PF facilities to all workers
2. That the management of Viva Global has not issued appointment letters to all workers even after working for long period
3. That the management of Viva Global is not issuing pay slips to all workers in time
4. That the management of Viva Global is not providing clean and hygienic toilet facilities and safe drinking water in sufficient quantity to all workers.
5. That the management of Viva Global has failed to provide sufficient fans and coolers to maintain workable temperature and also failed to provide proper canteen facility
6. That the management of Viva Global does not let workers take leave according to law.
7. That the management of Viva Global is not paying workers bonus as per law
8. That the management of Viva Global does not pay overtime as per law
9. That the management of Viva Global has been engaging in unfair labour practices to break the union in the factory through offer of promotion to the union leaders and involving thugs and police to threaten them and threat of termination to all workers involved in union activities

*Prd*  
*Jitesh*  
23-7-10