IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO.5493 OF 2013

IN THE MATTER OF:

M/s. Garment and Allied Workers Union ..... Petitioner

Versus

State of Haryana & Ors. ..... Respondents

INDEX

Sl. No.	Particulars	Pages
1.	Written Statement/Reply on behalf of the Respondent No.3, to the Writ Petition Along with supporting affidavit.	1-36
2.	**ANNEXURE R-1** A copy of the letter of the Labour Commissioner dated 21.06.2011.	37-39
3.	Vakalatnama	40-40

M/S. VIVA GLOBAL

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WRITTEN STATEMENT/REPLY ON BEHALF OF THE RESPONDENT NO.3, TO THE WRIT PETITION FILED BY THE PETITIONER.

MOST RESPECTFULLY SHOWETH:

PRELIMINARY OBJECTIONS:-

1. That the writ petition filed by M/s. Garment and Allied Workers Union, is not legally maintainable as the said Union is not a registered trade union duly registered under the Trade Unions Act, 1926 and as such is only a collection of individuals, none of whom was a workman employed with the Respondent No.3 at the time of filing of the writ petition, since the industry/factory had permanently closed down under Section 25FFA of Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") w.e.f. 16th April, 2012. Besides, Shri Nagender Singh, who has signed and filed the writ petition on behalf of the Union, has not been duly authorized by all or even majority of the ex-workmen who were employed in the closed industry/factory of the Respondent No.3, during its operation, to sign, file and institute the writ petition on behalf of the said workmen and the claimed resolution of the Union Annexure P-14(T), is signed by only two ex-workmen Khushboo Kumari and Nagender Singh, whereas all the other five persons were never employed by

the Respondent No.3. It would also be relevant to point out that in the Hindi copy of the resolution at page 99 of the petition, the signature of Shri Nagender Singh are different from his signatures in the writ petition and its supporting affidavit, as well as his signature on the claimed demand notice dated 14.09.2011, as well as on his affidavit in support of the application of the Petitioner C.M. No.558/2014 dated 21.12.2014, for substituted the service of the Respondent No.3. It is therefore apparent that the minutes of the resolution have been forged and fabricated and as such, Shri Nagender Singh has never been legally authorized to sign, file and institute the present writ petition. The writ petition is therefore liable to be dismissed as not maintainable, for the such reasons alone.

2. That even otherwise the extraordinary writ jurisdiction of the Hon'ble High Court under Article 226 of the Constitution of India, is not liable to be exercised in favour of the Petitioner, as has not approached the Hon'ble Court with clean hands and has deliberately suppressed and misrepresented the material/relevant facts and circumstances.

The Petitioner has deliberately misrepresented in Para 6 of the writ petition that the Respondent No.3 during the conciliation proceedings, had ever requested the Petitioner Union to draw up any agreement, whose terms and conditions were acceptable to the Respondent No.3. Annexure P-6 which is stated the copy of the such drafted Agreement, had never been requested and agreed by the Respondent No.3. The Respondent No.3 has further suppressed the fact that after the passing of the order dated

07.03.2011, by a Learned Single Judge of the Hon'ble High Court, disposing off the earlier Civil Writ Petition No.17722/2010 filed by the Petitioner, in which order it had been noted that the Deputy Labour Commissioner, Gurgaon would consider Annexure P-7, which was a claim/demand letter dated 14.09.2010 and pass an order in accordance with law, the Labour Commissioner, Haryana, Chandigarh, obviously on the basis of report submitted by the Labour Authorities at Gurgaon, vide its letter/order No.20083-86 dated 21.06.2011 had rejected the demand of the Petitioner, copy of which letter was sent to the Petitioner as well as the Respondent No.3. A copy of the letter of the Labour Commissioner dated 21.06.2011, is annexed herewith as **ANNEXURE R-1.** However, the letter dated 21.06.2011 as well as a copy of Annexure P-7 in the earlier writ petition, have deliberately not been annexed alongwith the writ petition. In view of the decision having already been taken by the Labour Commissioner, Haryana dated 21.06.2011, rejecting the demand letter of the Petitioner dated 14.09.2010, which order has not been challenged by the Petitioner, the present petition seeking a reference of the dispute relating to the alleged lock-out by the Respondent No.3 w.e.f. 25.08.2010, is not legally maintainable and infructuous.

The Petitioner has also deliberately suppressed as to what action had been taken and conveyed by the Labour Commissioner, Haryana to the Petitioner, on the failure report of the Labour-cum-Conciliation Officer, Circle, Gurgaon, annexed by the Petitioner as Annexure P-8 to its writ petition, wherein based on the demand letter of the Petitioner dated 14.09.2011, as per the comments of

the Conciliation Officer, no lock-out was stated to have been declared by the Respondent No.3. In case, the Labour Commissioner, Haryana, based upon the report of the Conciliation Officer has refused to refer the claim made in the demand letter dated 14.09.2011, also, the Petitioner can only challenge the order of refusal and cannot approach the Hon'ble Court with the present writ petition for directing the Respondent Nos.1 & 2 to necessarily refer the dispute regarding alleged second lock-out for 42 employees since 28.06.2011 for adjudication to the Industrial Tribunal.

ALC has refused but Appl Govt did not send the reference

That in view of the deliberate misrepresentation and suppression of material and relevant facts and circumstances by the Petitioner as well as the Labour Commissioner, Haryana having rejected the demand letter of the Petitioner dated 14.09.2010 relating to the alleged illegal lock-out by Respondent No.3 w.e.f. 25.08.2010 and the likelihood of the rejection of the second demand notice of the Petitioner dated 14.09.2011 relating to the subsequent alleged lock-out of 42 employees since 28.06.2011 by the Labour Commissioner, Haryana, the present writ petition is liable to be dismissed in limine.

3. That the writ petition raises seriously disputed question of facts, which cannot be properly adjudicated by the Hon'ble Court in the exercise of its writ jurisdiction under Article 226 of the Constitution of India. Therefore, since the alleged lock-out by the Respondent No.3 w.e.f. 25.08.2010 and second alleged lock-out for 42 employees since 28.06.2011, is seriously disputed by the

Respondent No.3, which had not indulged in any lock-out of any workmen w.e.f. 25.08.2010 and subsequently since 28.06.2011, the Petitioner cannot require the Hon'ble High Court to issue a writ, order or direction directing the Respondent Nos.1 & 2 to necessarily refer the claim of the Petitioner regarding any illegal lock-outs by the Respondent No.3, regarding which not even an iota of corroborative material has been filed, for adjudication to the Industrial Tribunal under Section 10 of the Act. The writ petition seeking the making of such reference, is therefore not liable to be entertained by the Hon'ble Court and is liable to be rejected.

4. That the industry/factory, regarding which the writ petition has been filed, having permanently closed down, w.e.f. 16th April, 2012, after complying with the requirement of Section 25FFA, no reference of any alleged industrial dispute can be validly made by the State Government, for adjudication to the Industrial Tribunal under Section 10(1) of the Industrial Disputes Act, 1947, as the act ceased to apply to the closed industry/factory. Therefore, the writ petition dated 02.03.2013 filed by the Petitioner for seeking the relief of writ, order or direction directing the Respondent No.2 to refer the dispute pertaining to the alleged illegal lock-out by Respondent No.3 w.e.f. 25.08.2010 and the second alleged lock-out for 42 employees since 28.06.2011 for adjudication to the Industrial Tribunal under Section 10 of the Industrial Disputes Act, 1947, much after the permanent closure of the factory w.e.f. 16th April, 2012, is not legally maintainable and/or is infructuous. As such, the writ petition is liable to be dismissed as not maintainable.

5. That even otherwise, the writ petition seeking the relief of issuance of an appropriate writ, order or direction that the Labour Court is not within its jurisdiction to dismiss the application for adjudication, which is filed direct, but to direct the appropriate Government to take the final decision for reference and send the decision to the Court before returning/dismissing the application to the Applicant and consequently for quashing/modifying the order of the Labour Court Annexure P-12, is not legally maintainable, as under the scheme of the Industrial Disputes Act, 1947, an industrial dispute, which is not covered under Section 2A of the Act, cannot be directly filed/raised by or on behalf of the workmen, before the Labour Court and the only appropriate Forum for raising such a dispute is the appropriate Government, which may thereafter refer or refuse to refer, for reasons to be stated in the refusal order, the dispute for adjudication to the appropriate Industrial Tribunal, under Section 10 of the Act. As such, the direct approach of the Petitioner to the Labour Court, by raising a dispute relating to alleged illegal lock-out of the workmen by the Respondent No.3, was wholly without jurisdiction, invalid and was not liable to have been decided by the Labour Court, on its merits and the Labour Court further had no legal duty or obligation to direct the appropriate Government to refer the dispute before the Labour Court, for adjudication by it, as per Section 10 of the Act. The writ petition challenging the order of the Labour Court dated 19.10.2012, dismissing the directly filed Statement of Claim relating to general demands, which did not fall within the definition of Section 2A of the Act, as not maintainable, is therefore entirely misconceived, without jurisdiction and illegal. It is therefore liable to be dismissed.

Without prejudice to the preliminary objections mentioned above, the following is the:

REPLY ON MERITS:

1. That the contents of Para 1 are wrong and denied. M/s. Garment and Allied Workers Union is not a Trade Union registered under the Trade Unions Act, 1926, representative of the workers/employees who had been employed by the Respondent No.3. It is further wrong and denied that the said Union has passed any necessary resolution and appointed Shri Nagender Singh as its authorized representative for filing of the writ petition, which petition, as stated in the preliminary objections mentioned above, is itself without jurisdiction and not legally maintainable. Shri Nagender Singh in his affidavit in support of the writ petition, has nowhere stated about the Union having passed any resolution appointing him as its authorized representative for filing of the writ petition. The writ petition on behalf of the non-registered Trade Union has not been validly filed and is therefore liable to be rejected as not maintainabie.

2. That the contents of Para 2 are wrong and denied. The Respondent No.3 having never indulged in any lock-out of any of its workmen, the question of any lock-out being illegal did not arise and the Respondent Nos.1 & 2 have rightly not referred any dispute pertaining to the alleged lock-out by the Respondent No.3 and the present writ petition filed by the Petitioner for compelling the Respondent Nos.1 & 2 to refer the dispute pertaining to the illegal

lock-out, whereas the Respondent No.3 has never indulged of any lock-out, is entirely misconceived, baseless and illegal. The Respondent No.3 has also not illegally terminated the service of any workmen or indulged in any unfair labour practices, as vaguely alleged by the Petitioner, without any supporting documentary proof. The Respondent Nos.1 & 2 has rightly refused to refer the dispute raised purportedly on behalf of the Petitioner Union vide demand letter dated 14.09.2010.

3. That the contents of Para 3 are wrong and denied. The industry/factory of the Respondent No.3, which was situated at Gurgaon, having permanently closed down, after due compliance with the provision of Section 25FFA, w.e.f. 16th April, 2012, no claimed member of the Petitioner's Union is thereafter employed with the Respondent No.3. None of the 102 workers mentioned in Annexure P-1 are employed in the industry of the Respondent No.3 after its permanent closure w.e.f. 16th April, 2012. It is further wrong and denied that the said persons were all employed by the Respondent No.3, during the period of the functioning of its industry or that they were/are members of the Petitioner's Union, which as already stated is not a Trade Union registered under the Trade Unions Act, 1926. The Petitioner is therefore not entitled and empowered to file any writ petition on behalf of the such persons. The present writ petition is therefore not legally maintainable for the such reason also.

4. That the contents of Para 4 are wrong and denied, besides being absolutely vague hence undeserving of any consideration. The Respondent No.3 had not disobeyed the order of the Hon'ble High Court dated 7th March, 2011 in Civil Writ Petition No.17722/2010, which, on a bare perusal of the order, did not impose any legal liability upon the Respondent No.3 and the writ petition filed by the Petitioner, Union had been disposed off as infructuous, in view of the Deputy Labour Commissioner, Gurgaon, having stated that Annexure P-7, which the Petitioner referred to as demand, would be considered by her and order would be passed in accordance with law, which needful was ordered to be done within a period of three weeks from the date of the order. Therefore, the question of the Respondent No.3 disobeying the order of the Hon'ble High Court dated March, 7th, 2011 did not arise. The Respondent No.3 had never declared/indulged in any lock-out as defined under Section 2(l) of the Act, of any workmen employed in its industry/factory. The termination of the service of a workman, can be by way of retrenchment as defined under Section 2(oo), or on account of the exceptions contained in Clauses (a) to (c) or as a punishment inflicted by way of such termination of service, which puts an end to the relationship of master and servant, but it can never amount to a lock-out as separately defined under Section 2(l) of the Act. In fact, lock-out has been held by the Apex Court, to be an antithesis to strike, where the employer refuses to provide work to its workmen till they except certain demands of the employer, whereas, in the case of strike as defined under Section 2(q), it is the workmen, who cease to perform their work, by way of a concerted refusal or a refusal, under a common understanding to

continue to work or to accept employment, till the demands of the workmen are accepted by the employer. Similarly, the suspension of a workman, pending disciplinary proceedings, does not amount to termination of the service of the workman, which may be treated as retrenchment and the suspended workmen continue to be on the rolls of the industry. The Respondent No.3 did not indulge in any unfair labour practice, as vaguely alleged, and only the services of some fixed term employees were not continued after the expiry of the period of their employment stipulated in their appointment letter and the services of some workmen were terminated during or at the end of their probation period, as per the stipulations contained in their appointment letters. The such cessation of the services of some of the workmen, did not amount to retrenchment, in view of Clause (bb) of sub-Section (oo) of Section 2 of the Act. It certainly did not amount to any lock-out or the unfair labour practice on the part of the Respondent No.3. It is totally incorrect that it was in obedience of the High Court order dated March 7, 2011, that 42 workers were allowed to join duty in the factory on May 9, 2011. The said workmen in fact had earlier stopped performing their work in a concerted manner, by way of illegal strike, in support of some employees whose services had been legally and validly terminated and the Respondent No.3 had never refused them work. They had themselves agreed to resume their duties on May 9, 2011, after persuasion by the Deputy Labour Commissioner, Gurgaon. However, after resuming their duties, some of the workmen indulged in gross acts of misconducts, including abusing and assaulting a lady guard. Therefore, the such workmen concerned were suspended. However, their suspension did not amount to any

lock-out of the factory. The other workmen, despite it being a clear condition of their service, contained in their appointment letters, that they could be assigned any duties, refused/objected to being asked to manufacture complete garments and wrongly insisted to assembly line approach for completing the garment, from which it was clear that though, they had resumed their duties but in actual fact they were not really interested in performing their assigned duties and their aim was to cripple the functioning of the industry/factory, which they ultimately succeeded in permanently closing down under Section 25FFA of the Act, w.e.f. 16th April, 2012. It is totally incorrect, as again vaguely alleged, that the Respondent No.3 committed any lock-out of the factory on 28th June, 2011. The concerned officials of the Respondent No.3 had been attending the negotiation proceedings before the Labour Authorities and bringing the correct facts to their knowledge, which were also verified by the Labour Inspector by visiting the factory.

In fact, some of the persons named, were not even the employees of the Respondent No.3 but were contract labour engaged through independent contractors, while some of the employees were on probation and some on fixed term appointment. It is further incorrect that nothing has been done by the Respondent Nos.1 & 2 on the demand notices sent to the Labour Department dated September 10, 2011 and September 14, 2011. As far as, the demand notice dated September 14, 2011 is concerned, which was Annexure- P-7 in the earlier writ petition filed by the Petitioner Union Civil Writ Petition No.17722/2010, the Labour Commissioner, Haryana, Chandigarh vide its letter No.20083-86 dated 21.06.2011

has rejected the demand of the Petitioner, copy of which order was sent to the Respondent No.3 also. Therefore, if the Petitioner had any valid grievance against the order of refusal of its demand notice by the Labour Commissioner, Haryana, it could have challenged the such order. However, to the knowledge of the Respondent No.3 the said order has not been challenged by the Petitioner till date. The Petitioner, as regards the subsequent demand notice dated September 14, 2011, which was also misconceived and baseless, has itself annexed the failure report claimed to have been submitted by the Labour and Conciliation Officer, Circle-I, Gurgaon, Annexure P-8/T, wherein the reference of any demand has not been recommended by the Conciliation Officer and no lock-out has been stated. It cannot therefore be validly claimed by the Petitioner that nothing has been done by the Labour Department.

That as far as the Labour Court's order dated 19.10.2012, Annexure P-12, is concerned, the Labour Court has rightly dismissed the directly raised general demand, claim as being not maintainable, since it is only after a reference is made to the Labour Court by the appropriate Government, under Section 10 of the Act for adjudication of the industrial dispute specified in the reference order, that the Labour Court gets the jurisdiction to decide the such reference. The Labour Court has no jurisdiction under the Act to return the complaint or to ask the appropriate Government to necessarily make a reference order. It cannot therefore be validly claimed that the Labour Court has not acted in accordance with law. The Petitioner was trying to abuse the process of the Labour Court, by directly filing, its claim for some

general demands before the Labour Court, which being not maintainable, had rightly been dismissed by the Labour Court.

5. That the contents of Para 5 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The Respondent No.3 has never violated any labour laws, as vaguely alleged by the Petitioner and the complaints and representations, if any, of the Petitioner to the Respondent No.3 as well as to the Respondent Nos.1 & 2, were entirely misconceived, baseless, motivated and malafide. The Respondent No.3 having never locked out any workmen on August 25, 2010 or on any other date, the question of the raising of any dispute against the such claimed lock-out did not arise and the Respondent No.3, which had never recognised the Petitioner, which was not a registered trade union, as being representative union of any of the workmen who had been employed in its industry/factory. The Respondent No.3 had been duly providing all the legal dues and facilities to its workmen. It had never indulged in any lock-out, therefore, no invalid and unjustified demands of the Petitioner Union were liable to have been accepted by the Respondent No.3. The Petitioner Union had never accepted before the Respondent No.2, regarding any of its workers, being in any way associated with the Petitioner Union and in any case, no workmen had been locked out by the Respondent No.3.

6. That the contents of Para 6 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The Respondent No.3 having never indulged in any lock-out, the question of informing the Labour Department or the workmen about

any lock-out or seeking any prior permission from the Labour Department, did not arise. The Respondent No.3 had no vengeance against its workmen and as such, the question of victimizing any workmen did not arise.

7. That the contents of Para 7 are wrong and denied. The Respondent No.3 having never illegally terminated the service of any workmen employed by it, the question of entering into any mutual agreement in the conciliation proceeding for unconditional reinstatement of all workers on 25th August, 2010, did not arise. The allegations made in the Para and F.I.R. No.157 dated 26.08.2010 made against the contractor and some unnamed employees of the PND contractors, were totally false, baseless, malafide and motivated, with a view to harass and pressurize the Management. It is totally incorrect that any members of the Petitioners were attacked by any Management supported professional goons and henchmen, when the Petitioners were entering the company premises to perform their duties. It is inconceivable that the Petitioner Union, being not an individual person or persons, could have entered the factory premises of the Respondent No.3 but were stopped from doing so. No claimed unnamed members of the Petitioner were attacked with canes and hockey sticks. It is also totally incorrect and a figment of the wild and malafide imagination of the Petitioner Union that any women workers were not even spared and were brutally beaten up and their clothes torn by goons, in the daylight. It is also totally incorrect that any workman named Anwar Ansari was kidnapped by any hired goons and henchmen of the Respondent No.3 and kept in their custody for more than 14 hours and beaten up badly.

8. That the contents of Para 8 are wrong and denied besides being absolutely vague hence undeserving of any consideration. It is totally incorrect that any representatives of the Respondent No.3, Shri Mohan Dhimri and Mahesh Sharma called upon any workers to threaten them of dire consequences if they continued their union activities or told that if the workers do not leave the Union then the Respondent No.3 will declare a lock-out to punish the workers.

9. That the contents of Para 9 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The Respondent No.3 had not locked out any workers, who were never accepted by the Respondent No.3 to be the members of the Petitioner Union, therefore, the question of suppressing the Petitioner's genuine, legitimate and legal demands, as vaguely alleged, did not arise. The Respondent No.3 having never declared lock-out, the question of paying any compensation for any lock-out did not arise and the due earned wages of the workmen who had actually worked during the month of August 2010, were routinely tendered to them.

10. That the contents of Para 10 are wrong and denied. The Respondent No.3 had never restrained any workers on its rolls, from entering the factory premises or from performing the normal work in the factory, therefore the definition of lock-out contained in Section 2(l) of the Act, did not apply. As already stated, the Respondent No.3 had never entered into any settlement with the Petitioner Union and had also never indulged in any lock-out, therefore, the question of the Respondent No.3 having violated Section 23(a), (c) & Section 24 of the Act did not arise. The

Respondent No.3 having never declared any lock-out or committed any unfair labour practice or illegal act, the demand notice dated 14.09.2011, claimed to have been sent by Shri Nagender Singh was entirely misconceived, baseless and invalid.

11. That the contents of Para 11 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The workmen employed with the Respondent No.3 were never proved to have become the members of the Petitioner Union, which was not a Trade Union registered under the Trade Unions Act, 1926. The Petitioner Union had no legal authority to send any representations dated 06.09.2010 and 14.09.2010 to the Deputy Labour Commissioner, Gurgaon and/or the General Manager of the Petitioner. Besides, the Respondent No.3 having never declared any lock-out in its factory, any representation for lifting the alleged lock-out was entirely misconceived, baseless and invalid and the question of lifting any alleged lock-out did not arise.

12. That the contents of Para 12 regarding the passing of the order by a Learned Single Judge of this Hon'ble High Court, on 20th September, 2010 in C.W.P. No.17722/2010 are not denied. However, the such order did not impose any liability whatsoever upon the Respondent No.3 and it was the Deputy Labour Commissioner, Gurgaon who was to consider the demand notice, Annexure P-7 to the writ petition and to pass an order in accordance with law. There was no direction from the Hon'ble Court that the Deputy Labour Commissioner was to necessarily refer any dispute raised by the Petitioner Union claiming any illegal lock-out

by the Respondent No.3, for adjudication to the appropriate Industrial Tribunal/Labour Court, under Section 10 of the Act.

13. That the contents of Para 13 are wrong and denied, except for the fact that the Labour Department held meetings with the Union representatives and the representative of the Respondent No.3, on various dates. However, it is totally incorrect that during any such meeting, the Respondent No.3 was persuaded to lift the lock-out for only 42 workers. In fact, the Respondent No.3 having never declared/indulged in any lock-out of any worker, the question of being persuaded to lift the lock-out did not arise. The 42 workers who had stopped reporting for duties on their own, at the instigation of the Union, on the basis of totally illegal and unjustified demands, including the reinstatement of some workmen whose services were terminated at the end or during the period of their probation, strictly in accordance with the terms and conditions of their employment, were persuaded by the Labour Department to report for their duties and accordingly, they resumed their duties w.e.f. 9th May, 2011. However, from their subsequent acts and conduct, it was apparent that they were not actually interested in performing their duties with the Respondent No.3 and were bent upon creating mischief and industrial unrest in the factory, as per the ultimate aim of the Union to get the factory closed so that, no export activities could be carried on by the Respondent No.3, which would benefit other exporters outside India, for whom the Petitioner Union seems to be working and it would be relevant to mention that its alleged office bearer Anannya Bhattacharjee, had earlier been associated with a foreign NGO(regd. In England) and she had been responsible for

unleashing a propaganda campaign against the Respondent No.3, through demonstrations at the premises of the customers of the Respondent No.3, situated in London and elsewhere and they were falsely made to believe that the Respondent No.3 was not complying with its obligations under the labour laws, including not paying minimum wages to its employees, which was totally incorrect but since the customers did not want to get into any hassles hazel, they stopped placing any further orders for garments, with the Respondent No.3, resulting in considerable loss in business to the Respondent No.3 which culminated in its permanent closure w.e.f. 16th April, 2012. The 42 workers refused to perform their assigned duties and some even indulged in gross misbehaviour including abusing and assaulting a lady guard, on account of which the instigators of the such misbehaviour had to be suspended and in protest against the such suspension, the other workmen also, in a concerted manner, stopped reporting for their duties. The demand notice, if any, dated September 14, 2011, on behalf of the Petitioner's Union, was totally invalid, illegal, unjustified and based upon incorrect facts. The Petitioner cannot validly claim that the Labour Department did not take any action on its such demand notice, as it has itself filed copy of undated failure report of the Labour Officer, Circle-I, Gurgaon, as Annexure P-9/T, wherein the demands have been recommended to be cancelled and regarding the alleged lock-out, categorical, comments have been made that the Management has not done any lock-out and it is the workmen who had left their work and gone on strike. Therefore, the question of referring any false dispute raised by the Union alleging illegal lock-out, did not arise. It is the Petitioner's

Union which has been acting against the interest of the Society and the nation and its Constitution, by deliberately creating industrial unrest in the export units in the Gurgaon industrial belt and also by demonstrating at the premises of their foreign buyers, so as to stop the export industry and thereby help the export competitors in some other countries. The workmen employed in the factory were brain washed and/or used as instruments to deliberately create the industrial unrest in the factories of Exporters and it was because of the evil design of the Petitioner's Union, particularly Ms. Anannya Bhattacharjee who was previously associated and working with a foreign NGO, which led to the permanent closure of the industry/factory of the Respondent No.3 w.e.f. 16th April, 2012. The present petition by the Petitioner, is a gross abuse by it of the process of the Hon'ble High Court and it is liable to be rejected/dismissed on account of inter-alia the preliminary objections mentioned in this written statement/reply. The Respondent No.3 was within its legal right to terminate the service of the workmen who had been employed on probation, during or at the end of their initial or extended period of probation and most of these workmen had received their full and final dues without demur. Some of the alleged workmen named by the Petitioner Union, were not the workmen employed by the Respondent No.3 but were contract labour engaged through independent contractors and hence, the question of the Respondent No.3 terminating their service or of the such persons raising any demand for reinstatement with the Respondent No.3, did not arise.

14. That the contents of Para 14 are wrong and denied. In fact, 42 workers, who had earlier left their duties on their own in a concerted manner and had never been locked out by the Respondent No.3, were persuaded by the Deputy Labour Commissioner to resume their duties and accordingly, they resumed their duties on 9th May, 2011 and gave undertaking of good conduct. It is totally incorrect that the Respondent No.3 had no intention of giving them proper duties, as vaguely alleged. They, upon their resuming duties were assigned proper duty but they refused to perform their assigned duty and in fact a lady guard was abused and assaulted, on account of which some workmen had to be suspended and the other workmen again stopped reporting for duty, in a concerted manner, to protest against the legal and justified suspension of some workmen. The reduction and ultimate drying up of the orders of the customer, was on account of the illegal, unjustified and unethical activities of the Petitioner's Union and its foreign affiliated NGO for which Ms. Anannya Bhattacharjee had been working earlier, who had intimidated and misrepresented the customers of the Respondent No.3 abroad, by demonstrating in front of their establishments and spreading falsehood about the Respondent No.3 not complying with the labour law requirements, which scared off the foreign buyers, who wanted to avoid being embroiled in any controversy, from placing any further orders upon the Respondent No.3. This led to the ultimate permanent closure of the factory w.e.f. 16.04.2012. However on 9th May, 2011, when the 42 workers had resumed duties, the Respondent No.3 had enough work to be performed by the such workers but they refused to perform their

assigned duties and later on left their duties and indulged in illegal strike.

15. That the contents of Para 15 are wrong and denied. The allegations made in the Para are a figment of the wild and malafide imagination of the Petitioner's Union and in fact, it was some of the workers who had misbehaved with the lady guard by abusing and even assaulting her, for which some workmen were suspended from service. The police complaints claimed to have been lodged with the police, were totally false, baseless, motivated and malafide. It is totally incorrect that the lady guard had been appointed for harassing and abusing women workers or that she used to follow women workers from top floor to toilet; verbally abused them and shouted on them on the shop floor. It is also incorrect that she used to threaten women workers with beating and killing. It is even otherwise inconceivable that a single lady guard could threaten number of women workers with beating and killing. No incident of the Respondent No.3 spy waiting for women workers in the women toilet, ever occurred. Therefore, the question of the Respondent No.3 having any intention of scaring workers of possible rapes did not arise. Only the workmen who had indulged in gross misbehaviour with the lady guard, were suspended from service pending disciplinary proceedings, which did not attract Section 25F of the Industrial Disputes Act, 1947. It is totally incorrect that Section 25F of the Industrial Disputes Act, 1947, was attracted to any action of the Respondent No.3.

16. That the contents of Para 16 are wrong and denied. The Respondent No.3 had not violated any labour laws and in fact, an associate foreign NGO of the Petitioner's Union, under an international conspiracy at the instance of exporters from other countries, had carried out a vilification campaign against the Respondent No.3, with its foreign customers and even held demonstrations in front of their premises, on the basis of false and baseless allegations, which led the foreign buyers, who wanted to avoid any controversy, to stop giving any further orders for garments to be exported to them by the Respondent No.3. The Petitioner Union and its associate foreign NGO were directly responsible for defaming the Respondent No.3 in the eyes of its foreign buyers. It is totally incorrect that no work was assigned to the workers. In fact, the workers had been assigned duties as per their terms and condition of employment and it is they who had illegally and unjustifiably refused to perform their assigned duties, by wrongly insisting upon assembly-line production and not complete manufacturing of garments by one workman. Their concerted refusal to perform assigned duty clearly amounted to illegal and unjustified tool down strike on their part. It is totally incorrect that the Respondent No.3 had accepted before any Labour Officer that there was no work assigned to the workers, as vaguely alleged. The Respondent No.3 had never requested, before the Conciliation Officer, for any agreement with the Petitioner's Union, which is not a registered trade union and had never been recognised by the Respondent No.3 as representing its workmen. The very fact that the Petitioner Union claims that it could restore the reputation of the Respondent No.3 in the international

market to attract orders from foreign buyers, clearly goes to show that it was the Petitioner Union which was squarely responsible in the first place, for deliberately and with malafide intention spoiling the reputation of the Respondent No.3 in the international market. The Respondent No.3 had never prepared any draft agreement for settlement with the Petitioner Union, with the involvement of any Labour Officer, as wrongly and vaguely alleged. The Union with its ulterior motives, through its associate foreign NGO, had already spoiled the reputation of the Respondent No.3 in the eyes of its foreign buyers and the Respondent No.3 was not amenable to any further blackmail on the part of the Union by entering into any settlement with the Union, in which the Union agreed to communicate to buyers the willingness of the Management to comply properly with labour laws. In fact, as already mentioned, the Respondent No.3 had already been complying properly with labour laws as well as international labour standards.

17. That the contents of Para 17 are wrong and denied. The alleged drafted Agreement, Annexure P-6 is not genuine but is a fabrication on the part of the Petitioner Union. The Respondent No.3 had nothing whatsoever to do with the alleged drafted agreement.

18. That the contents of Para 18 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The question of the Respondent No.3 negotiation with the Petitioner Union did not arise, as the said Union had never been recognised by the Respondent No.3 as a representative union of its workmen. It is totally incorrect that any official of the Respondent No.3 had

ever harassed any workers of the Respondent No.3. The Respondent No.3 having never declared any lock-out, the question of partial lifting of lock-out did not arise. The workman who had been suspended, were reported to have committed serious misconducts and it is a figment of the wild and malafide imagination of the Petitioner Union that on May 21, 2011, Nagendra Singh and Dharam Pal were called by Mohan Dimri in his cabin and threatened with physical harm. The complaint, if any, lodged with the police, in this behalf, was obviously false, baseless, malafide. It is also totally incorrect that the same incident happened with Anwar Ansari. Anwar Ansari and some other workmen were suspended, for reported serious acts of misconducts and it is incorrect that their suspension was totally illegal and unjustified. Besides, the such allegations have no relevance whatsoever with the prayer in the writ petition.

19. That the contents of Para 19 are wrong and denied. Some workmen had to be suspended from service, on account of reported commission of serious misconducts and it is totally incorrect that suspension notices were not served upon or that their suspension was illegal and unjustified.

20. That the contents of Para 20 are wrong and denied, besides being absolutely vague hence undeserving of any consideration. It is totally incorrect that casual and sick leave were denied to the workers. The very fact that it is stated in the Para regarding workers returning from permitted leave, goes to show that leave used to be permitted to the workers. It is totally incorrect that on return from

permitted leave, the Respondent No.3 refused to take any workmen on duty and forced them to stand outside the gate or forced them to give any regret letter.

21. That the contents of Para 21 are wrong and denied besides being absolutely vague hence undeserving of any consideration. The suspension of some workmen for reported commission of serious misconduct, had no connection whatsoever with the conciliation proceedings.

22. That the contents of Para 22 are wrong and denied. In fact, it was the Petitioner Union which had been threatening violence with the representatives of the Respondent No.3, when they went to the office of the Conciliation Officer. It is totally incorrect that the Management engaged in violence on the shop floor or that women workers were brutally beaten up and attacked by any lady guard on Management's direction with stick and knife. It is further incorrect that the Respondent No.3 had locked the company's main gate during the alleged incident. The allegation of any Mr. Sharma having supplied the lady guard with any stick or knife is totally false and baseless and no women workers received any injury during any violence alleged to have taken place on 28th June, 2011, on account of any act of any employee of the Respondent No.3. The alleged injuries may have been self inflicted or may have been caused because of any internal rivalries between the workers. The report of the General hospital, Gurgaon, has no connection whatsoever with the Respondent No.3 and it is totally incorrect that the Manager Mahesh Sharma threatened the workers with dire

consequences, if they came to the factory premises. All these false allegations have been deliberately and mischievously made against the Management, in a vain attempt to show that the Management had declared any lock-out of the workers who had earlier resumed their duties on the persuasion of the Deputy Labour Commissioner, on June 28, 2011.

23. That the contents of Para 23 are wrong and denied. It is totally incorrect that any earned wages or suspension allowance has not been tendered and as repeatedly stated, no workers had been locked-out by the Respondent No.3.

24. That the contents of Para 24 are wrong and denied. The Respondent No.3 having never declared any lock-out, the question of the alleged lock-out being illegal did not arise and the demand notice dated 14th September, 2011, purportedly on behalf of the workmen, was totally invalid, illegal and unjustified. No valid industrial dispute having been raised by or on behalf of the workmen of the Respondent No.3, the Conciliation Officer was required to submit his failure report for refusal of any reference. The Respondent No.3 was never supplied with any copy of the claimed failure report, annexed by the Petitioner as Annexure P-9, therefore, it cannot admit the same as being genuine. However, if the claimed failure report is carefully perused, it would clearly disclose that according to the Conciliation Officer, no valid industrial dispute had been raised in the demand notice dated 14th September, 2011, therefore, the reference of any alleged lock-out by the Respondent No.3, for adjudication by the Industrial

Adjudicator, was not recommended to be made by the appropriate Government. Therefore, the prayer of the Petitioner for directing the appropriate Government to refer the dispute regarding any alleged illegal lock-out, is wholly misconceived, baseless and illegal.

25. That regarding contents of Para 25, it is stated that the Petitioner had no legal right to straight away file any Statement of Claim before the Labour Court, Gurgaon, claiming any illegal lock-out by the Respondent No.3 and the Statement of Claim was not only without jurisdiction and invalid but also contained false averments.

26. That the contents of Para 26 are not denied. The Respondent No.3 had rightly filed an application before the Labour Court for summary dismissal of the dispute raised by the Petitioner.

27. That the contents of Para 27 are admitted. The Labour Court had rightly dismissed the Statement of Claim of the Petitioner, as being not maintainable.

28. That the contents of Para 28 are wrong and denied. The Petitioner has not been fighting for any legitimate rights of the workmen of the Respondent No.3 since the year 2010. In fact, it had been deliberately trying to create industrial unrest in the factory of the Respondent No.3, by using some of its workmen as its tools, by making false, baseless, motivated and malafide allegations against the Respondent No.3, while its associate foreign NGO had gone to the extent of bringing down the well earned reputation of the Respondent No.3 in the eyes of its foreign customers/buyers, inter-

alia by holding demonstrations in front of their premises and by falsely representing to them that the Respondent No.3 was violating the applicable Indian and international labour parameters, which put off the foreign customers/buyers of the Respondent No.3, from placing any further orders upon the Respondent No.3, to avoid any unnecessary hassles. The entire efforts of the Petitioner Union and its associate foreign NGO, to defame the Respondent No.3 in the eyes of its customer/buyers, were obviously part of a larger conspiracy by the foreign competitors of the Indian exporters of garments, to stop the business of the Indian Exporters, so as to cause the foreign customer/buyers to place their orders on the foreign competitors, instead of Respondent No.3 and other similarly situated exporters in India. The Respondent No.3 having never declared any lock-out of any of its workmen, till the time it was functioning, no valid dispute could have been raised by the Petitioner falsely alleging any lock-out by the Respondent No.3 and it had no legal right whatsoever to get its invalid demand of any alleged illegal lock-out by the Respondent No.3, referred by the appropriate Government, for adjudication, to the Industrial Adjudicator. The Respondent Nos.1 & 2 have rightly not referred any dispute relating to any alleged illegal lock-out by the Respondent No.3, for adjudication to the Industrial Adjudicator. The complaints, if any, filed by the Petitioner, with the Labour Authorities, were entirely misconceived, baseless, motivated and malafide.

29. That the contents of Para 29 relate to the jurisdiction of the appropriate Government, for making or refusing a reference of an

industrial dispute for adjudication to the Industrial Adjudicator. As per well settled law, although the function of the appropriate Government while making or refusing the reference under Section 10 of the Act, is only administrative in nature but the appropriate Government is not required to act as a mere postman and in a given case, where even prima facie an industrial dispute is not made out during the conciliation proceeding, the appropriate Government has every right to refuse to refer the invalid demand, for adjudication to the Industrial Adjudicator. It is not admitted that the Labour Officer of the Government of Haryana, committed any contempt of court, requiring any action from the Hon'ble High Court.

30. That the contents of Para 30 are not denied. The Petitioner Union is not a trade union registered under the Trade Unions Act, 1926 and as such, it is only a collection of individuals out of whom only Khushboo Kumari and Nagender Singh, were the persons who had been employed in the factory of the Respondent No.3, prior to its closure in 16.04.2012 and on 27.01.2013, they were not workmen employed by the Respondent No.3. Therefore, the claimed resolution dated 27.01.2013, on the basis of which the present writ petition has been filed, is invalid and illegal. Accordingly, the writ petition having not been validly filed by the Petitioner non-registered trade union, it is liable to be rejected as not maintainable, for the such reason alone. After the permanent closure of the industry/factory w.e.f. 16.04.2012, the Respondent No.3 has ceased to carry on the such industry and the services of all the workmen who were on the rolls of the industry/factory, at the time of

the closure of the industry/factory, ceased and thus no longer remained as workmen of the industry/factory, as defined under the Act. The writ petition seeking reference of the alleged industrial dispute, under the Act, by the Respondent Nos.1 & 2, is therefore not legally maintainable and is therefore liable to be rejected as such. The reference to Sections 23 & 24 of the Act, is entirely misconceived and baseless, as the Respondent No.3, before its permanent closure, had never declared any lock-out of workmen at any time. Therefore, the question of any such alleged lock-out being illegal did not arise.

31. That the contents of Para 31 are wrong and denied. The Respondent No.3 had never declared any first or second lock-out, as wrongly alleged in the petition and there was no settlement directed by the Hon'ble High Court which was in operation and as such, the question of direct violation of the provision of law did not arise. The 42 workers, had never been refused duty earlier and it was at the persuasion of the Deputy Labour Commissioner, Gurgaon, that they had resumed their duties and out of the remaining persons, some were on probation and strictly in accordance with their terms and conditions of employment, their services had been terminated during or at the end of their probation period, even before they had worked for 240 days or more in the preceding 12 months, whereas some workmen had voluntarily settled their full and final dues and the rest were not even employed by the Respondent No.3 but were contract labour engaged through independent contractors. All the 27 workers who were on probation,

the closure of the industry/factory, ceased and thus no longer remained as workmen of the industry/factory, as defined under the Act. The writ petition seeking reference of the alleged industrial dispute, under the Act, by the Respondent Nos.1 & 2, is therefore not legally maintainable and is therefore liable to be rejected as such. The reference to Sections 23 & 24 of the Act, is entirely misconceived and baseless, as the Respondent No.3, before its permanent closure, had never declared any lock-out of workmen at any time. Therefore, the question of any such alleged lock-out being illegal did not arise.

31. That the contents of Para 31 are wrong and denied. The Respondent No.3 had never declared any first or second lock-out, as wrongly alleged in the petition and there was no settlement directed by the Hon'ble High Court which was in operation and as such, the question of direct violation of the provision of law did not arise. The 42 workers, had never been refused duty earlier and it was at the persuasion of the Deputy Labour Commissioner, Gurgaon, that they had resumed their duties and out of the remaining persons, some were on probation and strictly in accordance with their terms and conditions of employment, their services had been terminated during or at the end of their probation period, even before they had worked for 240 days or more in the preceding 12 months, whereas some workmen had voluntarily settled their full and final dues and the rest were not even employed by the Respondent No.3 but were contract labour engaged through independent contractors. All the 27 workers who were on probation,

had been issued letters of appointment regarding their appointment being on probation, which clearly provided that their services could be terminated during the period of probation. Nine workers were appointed for fixed period of time and their services automatically came to an end on the expiry of their period of appointment and the 20 workers who had voluntarily received their full and final dues, had duly issued receipts of full and final payment. It would be relevant to mention that none of these workers, have raised any dispute with the Respondent No.3, regarding their termination of service or receipt of full and final payment and they have also not authorized the Petitioner Union to raise any dispute regarding them, against the Respondent No.3. The 42 workers, who were previously not reporting for their duties had been persuaded by the Deputy Labour Commissioner, Gurgaon, to resume their duties, but even after resuming their duty they did not perform their assigned duty in the manner required and some of them committed serious misconducts, including of abusing and assaulting a lady guard, on account of which they were placed under suspension. However, it is totally wrong and denied that a lock-out was declared by the Respondent No.3 on June 28, 2011. The representation/demand notice dated September 14, 2011 was totally invalid, illegal and baseless, motivated and malafide.

32. That the contents of Para 32 are wrong and denied. The writ remedy is not available to the Petitioner Union, on account of inter-alia the reasons mentioned in the preliminary objections as well as the reply on merits.

33. That the contents of Para 33, as regard the Petitioner having earlier filed similar C.W.P. No.17722/2010, which was disposed of by the Hon'ble High Court on 07.03.2011 are not denied. The Respondent No.3 had duly filed its written statement/reply to the such writ petition, pointing out the correct facts.

34. That the contents of Para 34 are wrong and denied. The Respondent No.3 has no role whatsoever under the Act, in referring any dispute for adjudication to the Industrial Adjudicator, under Section 10 of the Act and as regard the demand notice of the Petitioner Union dated 14.09.2010, the Labour Commissioner, Haryana had already refused to refer the non-dispute vide its order dated 21.06.2011, which was duly conveyed by it to the Petitioner as well as Respondent No.3. As regards, the demand notice dated 14.09.2011, the Conciliation Officer in his failure report has also mentioned about their being no valid dispute of any lock-out. Therefore, the demand notice dated 14.09.2011 is also not liable to be referred for adjudication to an Industrial Adjudicator under Section 10 of the Act. The Respondent No.3 having never declared any lock-out, the question of the such alleged lock-out being in violation of Sections 23 & 24 of the Act does not arise and no corroborative documentary evidence whatsoever has been filed by the Petitioner Union, to prove its contention regarding the Respondent No.3 having ever declared any lock-out. The Respondent Nos.1 & 2 are not under a statutory obligation to refer each and every demand, unless a properly raised prima facie valid industrial dispute is shown to have arisen between the workmen and the employer. The questions of law mentioned in the Para, are

not at all applicable to the facts and circumstances of the present case and the Labour Commissioner, Haryana, has not violated any principle of law, much less committed any contempt of court. The Hon'ble High Court in its order dated 07.03.2011, disposing of C.W.P. No.17722/2010, had never directed the labour authorities to necessarily refer the dispute raised by the Petitioner Union for adjudication to the Industrial Adjudicator and the Deputy Labour Commissioner, Gurgaon, had only been directed to consider the demand of the Petitioner, Annexure P-7 and to pass an order in accordance with law.

That in view of inter-alia the circumstances mentioned above, the prayer made by the Petitioner in the writ petition is entirely misconceived, baseless, illegal and is therefore liable to be rejected and the writ petition is liable to be dismissed as not maintainable.

It is therefore most respectfully prayed in the interest of justice that the writ petition of the Petitioner Union may kindly be dismissed with compensatory costs.

M/S. VIVA GLOBAL

VERIFICATION:

It is hereby verified this the day of August, 2015 at Chandigarh that the factual averments contained in the above written statement/reply are true to my knowledge derived from the records of the Respondent No.3, maintained in the ordinary course of its working, while the legal

averments, are believed to be true on account of legal advice received and believed to be correct. The last para is the prayer to the Hon'ble Court.

M/S. VIVA GLOBAL

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO.5493 OF 2013

IN THE MATTER OF:

M/s. Garment and Allied Workers Union ..... Petitioner

Versus

State of Haryana & Crs. ..... Respondents

AFFIDAVIT

I, Vipin Vohra, S/o. late Shri T.N. Vohra, Partner of the Respondent No.3 Firm, aged about 60 years, R/o.59, Poorvi Marg, Vasant Vihar, New Delhi-110 057, do hereby solemnly affirm and declare as under:

1. That the Deponent is one of the Partners of the Respondent No.3 Firm also the Power of Attorney holder of other partners, in which capacity he is fully aware of the facts and circumstances of the present case and competent to sign the present written statement/reply to the writ petition, on behalf of the Respondent No.3.

That the Deponent has gone through the contents of the accompanying written statement/reply on behalf of the Respondent No.3 to the writ petition. The contents of the same may kindly be read as part of this affidavit also and are not being repeated herein for the sake of brevity and in order to avoid repetition.

3. That the factual averments contained in the accompanying written statement/reply on behalf of the Respondent No.3 to the writ petition are true to my knowledge, derived from the records of the

Vipin Vohra

Respondent No.3, while the legal averments are believed to be true on account of legal advice received and believed to be correct. Annexure R-1 is true translated copy of respective original.

DEPONENT

VERIFICATION:

It is hereby verified this 17 day of August, 2015 at Chandigarh that the contents of Paras 1 to 3 of the above affidavit are true to my knowledge and nothing material has been concealed therefrom.

DEPONENT

13946

STAMP

ATTESTED AS IDENTIFIED

17/8/15

ANNEXURE-R-1

From

The Finance Commissioner and Principal Secretary,
Government of Haryana,
Department of Labour and Employment.

To,

M/s. Garment and Allied Workers Union
Plot No.1, Rao Maichand Complex,
Opp. Military Station, Jwala Mill,
Old Delhi-Gurgaon Road,
Gurgaon.

Sl. No. : I.D./
Dated:

Sub.: General Demand Notice to the Management of M/s. Viva Global for unjustified action, illegal lock-out through the Garment and Allied Workers Union under Section 21 and 2K of the I.D. Act, 1947.

I have been instructed in the above mentioned subject that I should inform you that there is no signature of any person on your demand letter dated 14.9.2010 and there is neither any signature of workmen in the annexed list and nor any identity of them. According to the above, your demand letter has been rejected.

Sd/-

Yours sincerely:

For Finance Commissioner and Principal Secretary,
Government of Haryana,
Department of Labour and Employment

Page No. 20083-86 Dated: 21.6.2011

A copy of the same is being sent to the following for information:-

1. Manager M/s. Viva Global, Plot No.413, Phase-III, Udyog Vihar, Gurgaon.
2. Officer of Settlement and Labour, Gurgaon-1
3. Joint Labour Commissioner, Gurgaon-1
4. Statistics Officer (Labour) Haryana, Chandigarh.

Sd/-

Yours sincerely:

For Finance Commissioner and Principal Secretary,
Government of Haryana,
Department of Labour and Employment.

True Translation Copy

Adv.

प्रेषक

वित्तायुक्त एवं प्रधान सचिव, हरियाणा सरकार,
श्रम तथा रोजगार विभाग ।

सेवा में

M/s Garment and Allied Workers Union
Plot No. 1, Rao Maichand Complex,
Opp. Military Station, Jwala Mill,
Old Delhi-Gurgaon Road,
Gurgaon.

कमांक : आई0डी0 /
दिनांक:

विषय :- **General Demand Notice to the management of M/s Viva Global for unjustified action, illegal lockout through the Garment and Allied Workers Union under Section 21 and 2K of the I.D. Act,1947.**

उपरोक्त विषय में मुझे निर्देश हुआ है कि आपको सूचित करूं कि सरकार ने आपके मांग पत्र दिनांक 14.9.2010 पर किसी के हस्ताक्षर नही है और संलग्न श्रमिकों की सूची में न तो हस्ताक्षर है और न तो उनकी कोई पहचान है । उक्त के आधार पर आपके मांगपत्र को रदद कर दिया गया है ।

— Sd/-
कृते: वित्तायुक्त एवं प्रधान सचिव,हरियाणा सरकार
श्रम तथा रोजगार विभाग ।

पृष्ठांकन कमांक– 20083-86 दिनांक– 21/6/11
एक प्रति निम्नलिखित को सूचनार्थ भेजी जाती है:–

1. **मैनेजर M/s Viva Global, Plot No. 413, Phase-III, Udyog Vihar, Gurgaon.**
2. श्रम तथा समझौता अधिकारी, **गुडगॉव–1**
3. उप श्रम आयुक्त, **गुडगॉव–1**
4. आंकड़ा अधिकारी (श्रम) हरियाणा, चण्डीगढ ।

कृते: वित्तायुक्त एवं प्रधान सचिव,हरियाणा सरकार
श्रम तथा रोजगार विभाग ।

Through by

Adv.

ILCWP
01.02.2011

IN THE COURT OF High Court of Punjab & Haryana at Chandigarh
Suit/Appeal No. CWP NO. 5493 of 2013 of 200...
In re:-
M/S Garment & Allied Workers Union Plaintiff /Appellant /Petitioner/ Complainant

.Vs

State of Haryana & Others .....Defendant/Respondent/ Accused

KNOW ALL to whom these present shall come that I/We. Respondent No3
M/S Viva Global .....the above named....Respondents.....do hereby appoint:

Adv. Harvinder Singh Adv. K.S. Dhaliwal
Adv. Rajesh Kumar Adv. LOVELEEN DHALIWAL

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorise him:-

1. To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/us.
2. To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.
3. To file and take back documents, to admit and/or deny the documents of opposite party.
4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. To deposit, draw and receive monthly cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.
8. And I/We the undersigned do hereby agree to ratify all the acts done so far and confirm all acts done subsequently by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and proposes.
9. And I/We undertake that I/We or my/our duly authorised agent would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.
10. And I/We the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case.
11. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain for himself.
12. And I/We the undersigned to hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I//we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 14 th day of August 2015

Accepted subject to the terms of the fees.

P-1488-09

D/231/79

P/6/1978

Advocate D/1239-E/04

Client

For VIVA GLOBAL
Authorised Signatory