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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

WRIT PETITION NO.5130 OF 2007  
WITH  
CIVIL APPLICATION NO. 2590 OF 2015  
IN WP/5130/2007

- 1 The Executive Engineer,  
Zilla Parishad, Minor Irrigation,  
Beed, Tq. & Dist.Beed.
- 2 The Deputy Engineer,  
Minor Irrigation,  
Zilla Parishad Sub-Division No.1,  
Kaij, Tq.Kaij, Dist.Beed.

..PETITIONERS

-VERSUS-

- 1 Navnath s/o Bajirao Kekan,  
Age : 45 years, Occ : Nil,  
R/o Kekanwadi, Tq.Kaij,  
Dist.Beed.
- 2 The State of Maharashtra.  
Through the Secretary,  
Rural Development Department,  
Mantralaya, Mumbai-32.  
Copy to be served on the  
Government Pleader,  
High Court of Judicature of  
Bombay Bench at  
Aurangabad.

..RESPONDENTS.

- 3 The Divisional Commissioner,  
Aurangabad Revenue Division,  
Aurangabad. ..Intervener/ Respondent

....

Mr.H.K.Mundhe, Advocate for the Petitioners.

Mr.Bhavthankar Vivek Vasantrao, Advocate for Respondent No.1.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 19<sup>th</sup> June, 2015**

Oral Judgment:

1           In the course of the hearing of the Civil Application, it is indicated that the petition instituted on 04.05.2007 seeks to challenge the judgment and order of the Labour Court dated 27.12.2004 in Complaint (ULP) No.78/1994 by which the complaint was partly allowed. The said judgment delivered under the MRTU & PULP Act, 1971 has been directly challenged in this Court by filing the present Writ Petition, without exhausting the statutory remedy under Section 44 of the said Act.

2           It is conceded by the Respondent that a revision petition under Section 44 of the MRTU & PULP Act, 1971 which is a statutory remedy, has not been preferred and the said remedy has not been availed of. This Writ Petition was admitted on 18.12.2007.

3           In the light of the above, I have heard the learned Advocates on the petition itself.

4           The grievance of the Respondent is that the Petitioner cannot approach this Court directly for challenging the judgment of the Labour Court dated 27.12.2004 under the MRTU & PULP Act, 1971.

5           Mr.Mundhe, learned Advocate has strenuously canvassed that there can be no prohibition for approaching the High Court in it's writ, supervisory and extra-ordinary jurisdiction. He, therefore, submits that this petition be entertained. Alternatively, it is submitted that in the event this Court is inclined to dispose of the petition as the remedy under Section 44 has not been availed of, the pendency of this petition shall be a ground for condonation of delay, if any, in preferring such revision petition. Mr.Mundhe hastens to add that Section 44 does not impose any limitation.

6           This Court in the matter of *Engineering Employees' Union v/s M/s Devidayal Rolling & Refineries Pvt.Ltd.* reported at **1986 (Vol.I) CLR 81**, has concluded that a writ petition filed directly in this Court challenging the order passed by the Labour Court under the MRTU & PULP Act, 1971 should not be entertained. The observations of this Court in paragraphs 3 and 4 read as under:-

“3.     *That apart, the petitioner has an alternative and*

*equally efficacious remedy by way of revision under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. This Court has in Navnath v. Shri Siddheshwar Sahakari Sakhar Karkhana Limited, 1981 Mh.L.J. 888, pointed out that the revisional jurisdiction of the Industrial Court under Section 44 of the said Act is analogous to its jurisdiction under Section 85 of the Bombay Industrial Relations Act. In an earlier judgment of this Court, namely in Shree Talkies v. Industrial Court, Maharashtra, 1970 Lab. I.C. 1354, a Division Bench of this Court had pointed out as follows:-*

*“Section 85 of the Bombay Act (Bombay Industrial Relations Act) confers on the Industrial Court power of superintendence over the Labour Courts. This power of superintendence appears prima facie to be unlimited and the language of Section 85 is almost identical with the language of Art.227 of the Constitution.”*

4. *When the Act itself invests the Industrial Court with the power of superintendence over the orders passed by the Labour Court and this power of superintendence is as wide as the power of superintendence under Article 227 of the Constitution, I do not see how the petitioner can by bypassing a remedy provided by the Act itself approach this Court under Article 227 of the Constitution. It is no answer to this difficulty to suggest, as Mr.Shetye appearing for the petitioner has suggested, that approaching the Industrial Court will take longer time and may not always be helpful in furthering the ends of justice. This argument is unacceptable. When there is an equally efficacious remedy provided by the Act itself, I do not think it is a proper exercise of discretion to entertain this petition under Article 227 of the Constitution.”*

7                    In the light of the above, I am not inclined to entertain this Writ Petition since the statutory remedy under the revisional jurisdiction

of the Industrial Court under Section 44 of the MRTU & PULP Act, 1971 is available to the aggrieved party.

8           The Apex Court in the case of *A.R.Antulay v/s R.S.Naik* reported in **AIR 1987 SC 1140**, has concluded that when a statutory remedy for assailing a judicial order and seeking judicial review is available, the said remedy ought not to be bypassed as it amounts to loss of a right of appeal/ revision.

9           Paragraph 3 of the A.R.Antulay judgment (supra) reads thus:-

“3. *Has the accused in this case a remedy by way of appeal as of right under the Criminal Procedure Code? There appears to be a reasonable doubt in this case because section 374(1) of the Code of Criminal Procedure, 1973 provides for an appeal to this Court against a conviction by a High Court under its extraordinary original criminal jurisdiction. Clause 24 of the Letters Patent of the Bombay High Court which confers extraordinary original criminal jurisdiction on the High Court refers only to cases brought before the High Court by the Advocate General, any Magistrate or any other officer specially empowered by the Government in that behalf. But this case is brought by a private person. If it falls outside clause 24 of the Letters Patent, the accused will have perhaps a remedy of appeal by way of special leave of this Court under Article 136 of the Constitution. Denial of even one appeal as of right may amount to violation of Article 14 and Article 21. Does not this question require examination?”*

10           As such, this Writ Petition is disposed of. The pendency of this petition from 04.05.2007 till the passing of this order shall be a ground in support of condonation of delay in preferring a revision petition under Section 44 of the MRTU & PULP Act, 1971, provided the Petitioner institutes such a revision within SIX WEEKS from today.

11           Rule is, therefore, discharged.

12           In the light of this order, the Civil Application does not survive and the same is also disposed of.

**(RAVINDRA V. GHUGE, J.)**