

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7537 OF 2015

NANDRAJ DAGADU SHINDE
VERSUS
NEWASA TALUKA SAHAKARI KHAREDI VIKRI SANGH LTD.

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Advocate for Petitioners : Shri Bedre V.S. h/f Shri Pawar P.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 24, 2015

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PER COURT :-

1. The petitioner is aggrieved by the impugned order dated 16.7.2015 passed by the Industrial Court, Ahmednagar below application Exhibit U/2 in Complaint (ULP) No. 53 of 2015, by which interim relief under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act ") has been refused.
2. The petitioner was initially appointed as a Peon in 1982. Subsequently, he was entrusted with Court work concerning the respondent from 13.12.2010. The petitioner was then placed in Grade III, vide which, it is contended that he cannot be entrusted with the work of a Clerk on behalf of the respondent in the Courts. He was posted in the Fair Price Shop and since then he has been conducting the Fair Price Shop.
3. By order dated 15.4.2015, the petitioner was directed to handover the charge of the Fair Price Shop to another employee and take charge of the Court work concerning the respondent. He preferred Complaint (ULP) No.53 of 2015 before the Industrial Court invoking item Nos.3, 5,9 and 10 of Schedule IV of the said Act. The application for interim relief has been rejected by the impugned order.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
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2
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4. I have heard learned Advocates for the petitioner for quite sometime. I have gone through the impugned order. Issue is of allotment of work which requires the petitioner to travel to Nevasa, which is about 20-25 kms. from the earlier assignment of the Fair Price Shop at Ghodegaon. The management is utilizing his services depending on work exigencies. The petitioner, who is a Clerk, cannot have a legitimate right to conduct a Fair Price Shop.

5. The impugned order is supported with reasons adduced by the Industrial Court. Said order is interlocutory in nature.

6. Transfer is a normal incidence of service and unless it is demonstrated that the transfer is malafide and has occurred in the guise of following management policy, prima facie, there could not have been any interference.

7. In the light of above, this petition is dismissed. It is made clear that the pending complaint shall be decided by the Industrial Court on its own merits after recording of evidence. All contentions of the litigating sides, including the contention of the petitioner that there is a change in service conditions without issuance of notice, are kept open.

(RAVINDRA V. GHUGE, J.)

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