

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11773 OF 2014

M/S BAXTER (INDIA) PVT.LTD.,AURANGABAD PETITIONER
VERSUS
GAUTAM NANA BARVE AND ANOTHER RESPONDENTS

Mr.V.J.Dixit, learned Sr.Counsel h/f Mr.S.V.Dankh, Advocate for the petitioner.

Mr.Y.I.Thole, Advocate for respondent Nos. 1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/03/2015

PER COURT :

1. I have heard the learned Sr.Advocate Mr.Dixit for the petitioner and Mr.Thole, learned Advocate for the respondents.

2. A host of facts and submissions have been set out. The petitioner has strenuously defended the transfer order Dtd.24/10/2013, by which respondent No.1/workman has been transferred to *Alatur Chennai*.

3. Mr.Thole, learned Advocate has submitted that this is an unprecedented transfer order, which has been issued only because

respondent No.1 has been a crusader for the rights of the workers and has always been in the forefront agitating to achieve better living conditions for the workers. He plays an important role in leading the respondent No.2 Union.

4. Mr.Thole further submits that the charter of demands raised by the Union were referred to the Industrial Tribunal and were registered as Ref.(IT) No.1/2012. The petitioner challenged the order of reference before this Court by filing Writ Petition No.7793/2012. The learned Division Bench of this Court by its order has upheld the order of reference and has dismissed the petition. Mr.Thole, therefore, submits that the petitioners have left no stone unturned to victimize and harass the workers and especially those workers who have been in the forefront.

5. Mr.Thole has further submitted that a criminal complaint (ULP) No.14/2014 has been filed before the Labour Court for the disobedience committed by the petitioner/Management in failing to implement the ad-interim order passed by the Industrial Court on 29/10/2013 passed below Exh.U-2 and the subsequent order dated 22/01/2014 passed below Exh.U-9 in complaint (ULP) No.150/2013. By the interim order dated 06/11/2014 passed by the Industrial

Court, impugned in this petition, respondent No.1 is directed to be continued in employment and his transfer order dated 24/10/2013 has been kept in abeyance.

6. After hearing the learned Advocates for some time, I am of the view that the protection granted to respondent No.1 by the impugned order could be continued so as to enable the Industrial Court to decide the main complaint on its own merits. There are several contentious issues raised by the rival sides. These contentions and issues, if considered at an interlocutory stage by this Court, in my view are likely to lead to certain observations being made by this Court and which may have an impact on the final outcome of the complaint.

7. So also, the respondent / workman has been protected by various orders passed by the Industrial Court in complaint (ULP) No.150/2013. Similarly, reference (IT) No.1/2012 has to be decided expeditiously and within a time frame as is directed by the Division Bench vide its order dated 18/11/2013 in WP No.7793/2012.

8. In the light of the above, I am of the view that ends of justice would be met by directing the Industrial Court to decide the

complaint expeditiously and by protecting the respondent/employee till its disposal. The salary/wages being paid to the respondent/workman will have to be continued to be paid. Mr.Dixit, learned Senior Advocate, on instructions, submits that the payment of wages would be continued if the complaint is directed to be decided expeditiously.

9. In the light of the above, this petition is disposed of without causing any interference in the impugned order dated 18/11/2013 on the following conditions :

- (a) The Industrial Court, Aurangabad shall endeavour to decide complaint (ULP) No. 150/2013 as expeditiously as possible and preferably on or before 31/03/2016.
- (b) The petitioner is at liberty to offer work to respondent No.1, if they so desire and in which case respondent No.1 shall perform his duties in accordance with the terms and conditions of the service applicable.
- (c) Respondent No.1 shall be paid his regular monthly wages on or before the regular pay day till the disposal of the complaint notwithstanding the fact whether he is reinstated in employment or not.
- (d) The litigating sides shall not seek adjournments on frivolous or unreasonable grounds and shall abide by the dates of hearing, as may be posted by the Industrial Court.

- (e) Since the petitioner is directed to continue to pay wages to respondent No.1, either by reinstating him or otherwise, by treating him to be employment if no work is offered, the criminal ULP No.14/2014 shall remain stayed, which is pending before the Labour Court at Aurangabad, till the disposal of the complaint before the Industrial Court.

(RAVINDRA V. GHUGE, J.)