

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 1096 OF 2015
IN
WRIT PETITION NO. 6124 OF 2001***

Bank Employees' Union, Pune-411 002. ... Applicant

In the matter of -

Bank Employees' Union, Pune-411 028. ... Petitioner
v/s

1. Bank Karmachari Sangh, Pune.
2. Assistant Registrar,
under the Maharashtra Industrial
Relations Act, 1946, Pune.
3. Member, Industrial Court, Pune. ... Respondents

Mr.V.P.Vaidya along with Mahendra Agavekar for the Applicant.

Mr.K.S. Bapat for the original petitioner.

Mr.Nitin Kulkarni along with Avinash Belge for Resp. No.1.

CORAM: N.M. JAMDAR, J.

DATED : 25TH AUGUST, 2015

P.C.:

By this Applicant, the Applicant has sought recall of the order dated 3 March 2015, whereby the Writ Oetition No.6124 of 2001 filed by the original Petitioner was withdrawn.

2. The petition was admitted on 23 January 2002. On 3 March

2015, learned counsel for the parties had tendered Resolution No.3 passed by the Executive Committee of Bank Employees Union for withdrawal of the petition, along with Resolution, a copy of memorandum of Understanding dated 1 March 2015 and also a copy of communication dated 17 February 2015 was taken on record. Based on this and on the application of the counsel for the Petitioner, the petition was dismissed as withdrawn.

3. In the present application, the order dated 3 March 2015 is sought to be recalled on the ground that the resolution passed for withdrawal of the petition was fabricated and the persons passing such resolution had no authority to do so.

4. Section 28-A of the Trade Unions Act, 1926 empowers the Industrial Court to decide a dispute as to whether a person is a office bearer or member of the registered Trade Union and also any dispute relating to property and such other dispute within a registered trade union. Section 28-A lays down methodology whereby the Industrial Court will give hearing before taking a decision. The jurisdiction of the Civil Court is also barred in respect of these matters.

5. What the Applicants are seeking today by way of this application is calling upon this Court to adjudicate a dispute which has arisen within a registered trade union. The power to solve such dispute is conferred on the Industrial Court. It will be therefore

appropriate that the dispute which is sought to be raised by the Applicant in respect of the resolution, authority of the ones passed the resolution and other communications, is raised before the Industrial Court and decided. Based upon the findings rendered therein the grievance raised in the civil application can be examined.

6. Mr.Vaidya, learned counsel for the Applicant expressed certain reservations about approaching the Industrial Court, as according to him, it may amount to admission of certain position. However, it is clarified that the filing of the application before the Industrial Court will be without prejudice to the rights and contentions of the Applicant. The Industrial Court, upon such application presented before it, would decide the same on its own merits. If the application is made by the Applicant within a period of two weeks to the concerned authority, he will forward the same to the Industrial Court within a period of two weeks thereafter and the Industrial Court will thereafter make an endeavour to decide the issue within a period of four months, if there are no earlier time bound commitments.

7. It is informed that the Petitioner union has made an application for winding it up. Mr.Vaidya, learned counsel for the Applicant states that the petitioner union should not be wound up as it will frustrate the purpose of this application. There is merit in this request. Though Mr.Bapat objects to the locus of the Applicant,

in my opinion, directing that the Union should not be wound up in the meanwhile, would be in the interest of justice.

8. All contentions of the parties on merits are kept open.

9. After the proceedings are so decided by the Industrial Court, liberty is granted to present the civil application again, as it is not necessary to keep the same pending. If the Petitioner makes an application within two weeks, the Union concerned shall not be wound up till the application to be filed by the Petitioner is decided.

10. The civil application is accordingly disposed of with liberty as stated.

(N. M. JAMDAR, J.)

C E R T I F I C A T E

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by :
Shri B.S. Bhangale,
Private Secretary to Hon'ble
Shri Justice N.M. Jamdar.

Uploaded on : 03/09/2015