

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

WRIT PETITION NO.5414 OF 2015

Santosh Dagadu Ranjane and Ors. Petitioners

Vs.

Dinesh Digambar Dakhve & Ors. Respondents

Mr. Rahul Nerlekar, Advocate for the Petitioners.

Mr. Sudhir Talsania, Senior Counsel i/by Mr. Rahul Oak, Advocate for Respondents no. 1, 2 and 8.

Coram : Smt. R.P. SondurBaldota, J.

Date : 8th July, 2015.

P.C.

1 This petition is directed against the interim order dated 16th May, 2015, by which the Industrial Court, Pune dismissed the petitioners' application for grant of interim relief of injunction against the respondents from acting as office bearers/ executive committee of the recognised union i.e. Thermax Kamgar Sanghatana.

2 The dispute is about the election to the executive committee of the recognised union. Notice dated 27th January, 2015 was issued in accordance with the constitutional provisions of the

union for holding Annual General Meeting on 15th February, 2015 at K.T. Sule Hall in Akurdi, Pune. In the meeting, apart from the other businesses, election to the executive committee was to be held. According to petitioners no.1 and 2, election had in fact been held and the result of the election communicated to the employer. The respondents dispute the claim and allege that the meeting started in the presence of Police, several outsiders and also “bouncers”. In the meeting, the members of the union were not allowed to speak on the issue of suspension of as many as 72 members from the union. As a result several of the members left the place and convened a separate meeting at Khandoba Devasthan Trust, Pune. In that meeting, there was election to the executive committee and the respondents were elected as the members of the committee. The result was communicated to the employer, who has accepted the respondents as the representatives of the union. Thus, there is dispute as regards the meetings held by the employees on the same day and the events that transpired at the meetings.

2 The allegations made by the unsatisfied workers as regards the stifling of their voice and the atmosphere of terror in the first meeting have not been refuted by the petitioner in the proceedings. The respondents rely upon the affidavits filed by the employees, who had left the first meeting. Though the affidavits are seen to be carbon copies, in which the names of employees have been written by hand, perusal of the impugned order shows that the respondents had offered

to keep each such employee present in the court in order to verify the statements made in the affidavits. On appreciation of the entire material before it, the Tribunal has expressed its prima facie opinion that the second meeting held was the proper meeting and the resolution as claimed by the respondents were passed in that meeting.

3 Mr. Nerlekar, the learned advocate appearing for the petitioners submits that there is no dispute on record as regards the holding of the first meeting, whereas holding of the second meeting is clouded under doubt. The petitioners have produced a letter from the trustees of Khandoba Temple stating that on the date and time of the second meeting, the cultural hall of the Temple Trust was booked for marriage and the marriage ceremony had taken place in the hall. However, as has been observed by the Tribunal, there is nothing on record to indicate that there was no other place available at site, than the cultural hall. It is to be noted that the petitioners have not produced either before the tribunal or before this court, the minutes of meeting conducted by them. Today, there is nothing on record to indicate that any business was transacted in the first meeting, whereas there is sufficient material to show that the second meeting was attended by majority of the workers, in which the business was transacted including election to the executive committee. Thus, the prima facie view of the tribunal as regards holding of the second meeting is justified.

4 Mr. Nerlekar next submits that the respondents are required to be restrained from representing the workers, as there is apprehension that they would withdraw two of the proceedings, pending in the Industrial Court, i.e. Reference (IT) No.12 of 2015 and Complaint (ULP) No.207 of 2014. The petitioners rely upon two applications dated 15th April, 2015 and 26th March, 2015 filed by the respondents in the two proceedings respectively. The petitioners apprehend that the respondents may simplicitor withdraw the proceedings, which have been filed by the recognised union. The applications referred to are simply for changing the advocate. Therefore, there can be no apprehension of withdrawal of the proceedings on the basis of the two applications alone. Thus, I find no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

5 Considering the nature of the dispute, it is necessary to expedite the hearing of the Application (ICTU) No.1 of 2015, pending in the Industrial Tribunal at Pune. The hearing of the proceedings is therefore expedited. The Tribunal shall endeavour to dispose off the proceedings within a period of six months from today.

(Smt. R.P. SondurBaldota, J.)