

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6505 OF 2015

Co-operative Bank's Employees Union, ThanePetitioner
: V/S :
The Navjeevan Co-operative Bank Ltd and Ors.Respondents

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Mr. M.S. Topkar, Advocate for the petitioner.

Mr. P.N. Anaokar a/w. Mr. Rahul Oak, Advocate for the respondents.

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Coram :- Smt. R.P. SondurBaldota, J.
20th July, 2015.

P.C. :-

- 1). This petition arises out of an application for interim reliefs. Considering the nature of the order, the petition is being disposed off finally at the stage of admission.
- 2). The petitioner has filed Complaint (ULP) No. 61 of 2015 alleging unfair labour practice under Items-1(c) and 5 of Schedule-II and Items-9 and 10 of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("MRTU & PULP Act" for short). One of the acts alleged constituting

unfair labour practice is issuance of Circular dated 17th March, 2015 giving certain unilateral wage rise to the employees. According to the petitioner, the Circular is an attempt on the part of the respondent to scuttle the Reference made to the Industrial Tribunal being Reference (I.C.) No.2 of 2015 in respect of several demands raised on the service conditions of its members. The petitioner had filed application at Exhibit-U-2 for interim relief of stay of the Circular dated 17th March, 2015. The application was contested by the respondent and was decided by the Industrial Tribunal by the order impugned herein.

3). In the impugned order, the Industrial Tribunal observes, that the petitioner has made out a strong *prima-facie* case of unfair labour practice under Item-9 of Schedule-IV. It also opines that, in the facts and circumstances of the case, more particularly, the fact of illegal change in violation of the statutory provisions the balance of convenience lies in favour of the petitioner. Despite such clear observations, the Industrial Tribunal strangely permitted the respondent to implement the Circular stating reason that keeping the Circular in abeyance would amount to keeping the employees of the petitioner away from the wage rise offered by the respondent and that would be prejudicial to the members of the petitioner.

4). Having arrived at the *prima-facie* conclusion, that the

Circular amounts to illegal change being in violation of the statutory provisions, the Industrial Tribunal could not have given it sanction of the Court by permitting the respondent to implement the Circular. Hence, the petition is allowed. The interim order passed by the Industrial Tribunal dated 24th June, 2015 passed on order below Exhibit-U-2 in Complaint (ULP) No. 61 of 2015 is set aside. The application at Exh-U-2 is allowed in terms of prayer clauses (a) and (b).

(SMT. R.P. SONDURBALDOTA, J)