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IN THE HIGH COURT OF JUDICATURE AT MUMBAI
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 215 OF 2015

Instituted for Design of Electrical Measuring
Instruments

.. Petitioner

Vs.

Kamgar Utkarsha Sabha

.. Respondent

Mr.VP.Vaidya i/b M.M.Agavekar, Advocate for Petitioner.
Mr. PM.Mokashi, Advocate for Respondent.

CORAM : R. G. KETKAR, J.
DATE : 03rd March 2015

P.C. :

. Heard Mr.VP.Vaidya, learned Counsel for the petitioner and Mr.PM.Mokashi, learned Counsel for the respondent at length. Rule. Mr. PM.Mokashi waives service. At the request and by consent of the parties, rule is made returnable forthwith and the petition is taken up for final hearing.

2. By this petition under Article 226 of the Constitution of India, the petitioner has challenged the judgment and order dated 29/01/2015 passed by the learned Member, Industrial Court, Maharashtra, Mumbai (for short 'Tribunal') below Exhibit U-2 in Complaint (ULP) No. 18 of 2015. By that order, the Tribunal allowed the application Exhibit U-2 and restrained the petitioner herein from giving effect to notice of change dated 29/12/2014 with the contents in the enclosed annexure until final decision of the

complaint. Mr.Vaidya submitted that appropriate government in respect of the petitioner is the Central Government and therefore, the Tribunal constituted under the provisions of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'Act') has no jurisdiction to entertain the complaint of unfair labour practices under the Act. He further submitted that this preliminary issue was specifically raised before the Tribunal. Notwithstanding that the Tribunal after granting ad-interim relief on 17/01/2015, proceeded to dispose of application Exhibit U-2 finally by the impugned order. He submits that the impugned order may be set aside thereby restoring ad-interim order dated 17/01/2015 till the issue of jurisdiction is decided.

3. Mr.Mokashi has no objection for adopting such course. He submitted that ad-interim order may be continued till such time the issue of jurisdiction is decided and for further period of 2 weeks thereafter. I am informed that next date of hearing before the Tribunal is 05/03/2015. The Tribunal will frame appropriate issues and permit the parties to lead evidence on the issue of appropriate government.

4. In view thereof, petition is disposed of in the following terms.

- i) The impugned order dated 29/01/2015 is quashed and set aside and the order dated 17/01/2015 is restored till the

decision of jurisdiction and for further period of 2 weeks thereafter.

ii) The parties will lead evidence on the question of appropriate government from 05/03/2015 onwards.

iii) The Tribunal is requested to decide this preliminary issue within 3 months from the date of the appearance of the parties.

iv) All the contentions on merits of the parties are expressly kept open.

5. Since order is passed by consent, it shall not be construed that I have expressed any opinion on merits of the case either way.

6. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)