

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2728 OF 2014

Grand Hyatt Mumbai and others ... Petitioners
Vs.
Sachin Laxman Sawant and others ... Respondents

Mr. K. M. Naik, Senior Advocate i/b. Mr. S. P. Salkar for Petitioners.
Mr. M. D. Nagle for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 08, 2015

P.C. :

Heard Mr. Naik, learned Senior Counsel for petitioners and Mr. Nagle, learned Counsel for respondent No.1 at length.

2. Mr. Naik orally applies for deleting respondent No.2 being a formal party as no relief is claimed against the respondent No.2. On the motion made by Mr. Naik, respondent No.2 is deleted. Amendment shall be carried out forthwith. Rule. Mr. Nagle 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.

3. By this Petition under Article 226 of the Constitution of India, petitioners have challenged i) the judgment and order dated 07.04.2014 passed by the learned Judge, 5th Labour Court, Mumbai, below exhibit U-2 in Complaint (ULP) No.70 of 2014 as also ii) the judgment and order dated 07.08.2014 passed by the learned Member, Industrial Court, Mumbai in Revision Application (ULP) No.67 of 2014. By these orders, the Courts below partly allowed the application for interim relief, exhibit U-2 and prima facie held and declared that the petitioners herein

have engaged in and continue to engage in unfair labour practices under Items 1(a), (b) and (g) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'Act') and the petitioners were directed to cease and desist temporarily till the disposal of the main complaint. The petitioners were directed to conclude the domestic enquiry initiated against complainant in pursuance of the charge sheets dated 02.11.2013 and 03.12.2013 within two months from 07.04.2014 and expedite the same by giving reasonable opportunity to the respondent to defend the case. After concluding the enquiry, if the petitioners held that alleged misconduct has been proved against the respondent then the petitioners were temporarily restrained from imposing major punishment of termination, dismissal and discharge against the respondent, without permission from the Labour Court, till the disposal of the main complaint. The petitioners were given liberty to impose minor punishment without permission of the Labour Court in case of proved misconduct against the respondent after concluding the enquiry within stipulated time and report to Labour Court expeditiously.

4. In support of this Petition, Mr. Naik submitted that the learned Judge of the Labour Court prima facie held that petitioners herein have engaged and continue to engage in unfair labour practices under items 1(a), (b) and (g) of Schedule IV of the Act. The said finding is recorded without assigning any reasons. In particular, he invited my attention to paragraphs 6 to 11 of the order and submitted that the learned Judge of the Labour Court has ultimately recorded conclusion in paragraph 11 that the petitioners herein have engaged in unfair labour practices, however, no reasons are assigned in that regard. Mr. Nagle was not in a position to controvert this submission.

5. Mr. Naik further states that in pursuance of the order of the Labour Court, the enquiry was concluded on 17.09.2014 and the time stipulated in paragraph 3 of the operative part of the order may accordingly be extended.

6. Having regard to the fact that the learned Judge of the Labour Court did not give any reasons while recording the prima facie finding about commission of unfair labour practices by petitioners, the impugned orders deserve to be quashed and set aside only on this count. At the same time, it is necessary to ensure that during the pendency of exhibit U-2, petitioners do not terminate the services of the respondent. Mr. Naik, upon taking instructions, states that till the decision of exhibit U-2, petitioners will not terminate the services of the respondent. The statement made by Mr. Naik is recorded.

7. In view of the above, the impugned judgment and order dated 07.04.2014 passed by the learned Judge, 5th Labour Court, Mumbai, below exhibit U-2 in Complaint (ULP) No.70 of 2014 as also the judgment and order dated 07.08.2014 passed by the learned Member, Industrial Court, Mumbai in Revision Application (ULP) No.67 of 2014 are quashed and set aside. Exhibit U-2 is restored to the file of the Labour Court. The learned Judge of the Labour Court is requested to decide the application, exhibit U-2, within six months from the date of appearance of the parties. The parties agree that they will appear before the Labour Court on 20.01.2015 and for that purpose, no fresh notice be issued to them. All the contentions of the parties on merits are expressly kept open and the learned Judge will decide exhibit U-2 uninfluenced by any observations made by this Court.

8. Rule is made absolute accordingly with no order as to costs.

(R. G. KETKAR, J.)