

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION NO.1242 OF 2015
IN
WRIT PETITION NO.3018 OF 2014

The Director, Health Services, Directorate, Arogya Bhavan, Mumbai and ors.

-vs-

Maharashtra Rajya Arogya Seva Karmachari Maha Sangha, affiliated to Bharatiya Mazdoor Sangha, Pune, Branch at Bhandara, Thr President Jairam Thosare and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. M. Deshpande, AGP for petitioner.

Shri S. R. Bhongade, Advocate for respondent Nos.1 to 13.

Shri R. S. Khobragade, Advocate for respondent Nos.14 and 15.

CORAM : A.S.CHANDURKAR, J.

DATE : December 15, 2015

Heard respective counsel for the parties on the
question of interim relief.

It is submitted by Shri A. M. Deshpande, learned
Assistant Government Pleader for the petitioner that the
Industrial Court has allowed the complaint filed by the
respondent Nos.1 to 13 by holding that unfair labour
practice had been considered under Items 5 and 9 of
Schedule-IV of the Maharashtra Recognition of Trade
Unions and Prevention of Unfair Labour Practices Act,
1971. According to him, there are no findings recorded
with regard to any juniors being continued in
employment as required by Item 5. He further
submitted that in so far as breach of Item 9 is
concerned, a finding has been recorded by the Industrial
Court that there was no substance in the grievance

regarding non-implementation of agreement dated 04/01/2008. It is further submitted that the Regulation Rules of 2003 prescribe particular procedure for appointment and unless same is followed, relief could not have been granted by relying upon earlier circular.

Shri S. R. Bhongade, learned counsel for the respondent Nos.1 to 13 submitted that the Industrial Court rightly directed the circulars to be followed. Similarly, the Regulation Rules had been taken into consideration while granting relief to said respondents. He therefore submitted that there was no case for grant of interim relief.

Shri R. S. Khobragade, learned counsel for the respondent Nos.14 and 15 supported the stand taken by the petitioners.

Perusal of the impugned judgment indicates that though in paragraph 20 there is reference to certain persons being re-appointed, there is no evidence on record disclosing names of such persons and they being junior to respondent Nos.2 to 13. Similarly, in so far as breach of Item 9 is concerned, the observations in paragraph 19 of the impugned judgment supports the stand of the petitioner. When the Rules of 2003 are holding the field, the directions to follow earlier circular is also a question to be gone into. In view of this, a prima facie case for grant of interim relief is made out. Accordingly, the application is allowed in terms of prayer clause (i). Application is disposed of.

W.P. No.3018 of 2014.

The petition be listed for hearing in the week commencing on **01/02/2016**.

JUDGE