

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

WRIT PETITION No.6896 OF 2014

Shri Lekhraj s/o Motiram Telang

-Vrs.-

MOIL Limited, Nagur thr. Its Chairman-Cum-Managing Director.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.

Court's or Judge's orders.

Mr. S.D. Thakur, counsel for petitioner.

Mr. S.S. Ghate, counsel for respondent.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 6th OCTOBER, 2015

Heard advocate Thakur for petitioner and advocate Ghate for respondent.

2. Shri Thakur submits that in present petition challenging is restricted only to the correctness of procedure followed by appellate authority while passing impugned order.

3. Impugned order dated 7.2.2014 communicates to petitioner the decision by Board of Directors of MOIL Ltd. in its 297th meeting held on 19.1.2014. It reads thus -

“In the 297th meeting of the Board of Directors of MOIL Ltd., held on 19.01.2014 “the Board concluded that no fresh/new points have been brought out in appeal on 28.01.2013 & letter dt. 25.10.2013 to merit reconsideration. As such, it was decided to uphold the penalty imposed.”

4. Shri Ghate however, points out that the Disciplinary Authority and Appellate Authority happens to be the same and

therefore the appeal is required to be placed before Board of Directors. He further contends that the reasons can be demonstrated from records and no prejudice is caused to petitioner.

5. It is settled position that reasons as contained in appellate order only can be looked into. Additional material on the basis of which reasons can be worked out is not available for consideration in such challenge.

6. Impugned order specifically shows the conclusion of Board of Directors that no fresh/new points were brought before it.

7. It is apparent that appeal was on material on record i.e. on points which were before original authority and no new points/fresh points were raised. But merely because no new points/fresh points were raised, the appeal cannot be held to be without merit. Impugned order finds appeal without merit as no new points or no fresh points have been raised.

8. We, therefore, find substance in contention of petitioner and hold that impugned order does not contain any application of mind. This court while issuing notice on 12.12.2014 has recorded this statement of advocate Thakur. Respondent was, therefore, aware that it has to satisfy this Court about reasons or lack thereof in impugned order. Despite this, though reply affidavit has been placed on record, copy of resolution passed by Board of Directors on 19.1.2014 is not made available. In any case, that resolution is not communicated to the petitioner.

9. Impugned order dated 7.2.2014 is, therefore,

quashed and set aside. The appeal filed by petitioner is restored before the respondent appellate authority for its disposal according to law. Writ petition is thus partly disposed of. No costs.

JUDGE

JUDGE

Hirekhan