

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5127 OF 2014

Prakash Baburao Bhusari & Ors. Vs. Maharashtra State Coop. Consumer's Federation Ltd. Mumbai & ano.

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

Court's or Judge's Order

Shri K. R. Lule Adv for petitioners.
Shri P. D. Meghe Adv for respondents.

CORAM: A.S.CHANDURKAR J.

DATED: 14th AUGUST, 2015.

Heard learned counsel for the parties. Challenge in the present writ petition is to the order passed by the Industrial Court partly allowing the revision application filed by the respondents and granting relief of monetary compensation instead of reinstatement. The petitioners were employees of the respondents. The activities of the respondents were being conducted by running a retail shop by name "Apna Bhandar". Pursuant to certain litigation between the respondents and the Nagpur Municipal Corporation, the retail shop was closed down due to which no work was available. The respondents therefore transferred the services of the petitioners elsewhere. As the petitioners did not join at the transferred place, their serves were terminated. Hence the petitioners filed complaint under Section 28 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1972. The Labour Court came to the conclusion that closure of the retail shop

was not for bonafide reasons. Though the same was running in profits services of the petitioner were transferred which in effect amounted to dispensing with their services. The Labour Court therefore directed reinstatement with 50% back wages. In the revision application filed by the respondents the Industrial Court held that the provisions of Section 25FFF of the Industrial Disputes Act, 1947 (for short the Act of 1947) was attracted and the closure was for bonafide reason. It therefore set aside the order of reinstatement and directed payment of compensation.

Shri K. R. Lule, learned counsel appearing for the petitioner submitted that the Labour Court was justified in directing the reinstatement in view of the finding that was recorded that the retail shop was closed due to litigation though the same was running in profits. It was submitted that in terms of the explanation to Section 25FFF of the Act of 1947, financial losses would not be a situation that could be termed as unavoidable circumstances. According to him the Industrial Court was not justified in holding that the closure was for financial reasons.

Shri P. D. Meghe, learned counsel for the respondents supported the impugned order. He submitted that the shop was required to be closed on account of litigation between the respondents and the Nagpur Municipal Corporation. The same was for reasons beyond the control of the employer and hence the Industrial Court was justified in directing compensation to be paid.

Considering the material placed on record the finding recorded by the Industrial Court that the closure was for bonafide reasons especially when the respondents had lost the litigation and were required to close down the

shop appears to be supported by material on record. Therefore, it cannot be said that the direction to pay compensation under Section 25FFF of the Act of 1947 was contrary to findings recorded by the Industrial Court as the same are based on correct appreciation of the evidence on record. Same cannot be termed to be perverse to warrant interference. Hence the Writ petition stands dismissed with no order as to costs.

JUDGE

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