

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7153 OF 2014.

(CHIEF EXECUTIVE OFFICER, Z.P. WARDHA...VS..JUDGE, LABOUR COURT, WARDHA & ANR.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : NOVEMBER 30, 2015.

CAW NO. 2189/2015.

For the reasons stated in the application and the fact that it is not opposed, inasmuch as reply is not filed, the petitioner is permitted to incorporate the amendment.

The Civil Application is allowed.

W.P. NO.7153/2014.

Heard Shri P.V.Thakre, advocate for the petitioner, Shri J.R. Kidilay, advocate for the respondent No.2 and Shri V.P. Gangane, A.G.P. for the respondent No.1.

In Reference IDA No. 1 of 2006 an *ex parte* award came to be passed by the Labour Court in favour of the respondent No.2 and against the petitioner. The petitioner filed an application for setting aside the *ex parte* award. As there was delay in filing the application, the petitioner filed an application praying for condonation of the delay. The application praying for condonation of delay is rejected by the impugned order.

Shri Thakre, learned advocate, relying on the order passed in the case of *Ram Shiroman Mishra Vs. Vishwanath Pandey*, reported in **(2012) 8 SCC 575**, has submitted that the issue, as to whether the application for setting aside the *ex parte* award can be entertained after 30 days, is under consideration by larger Bench.

RULE.

During pendency of the petition, the effect, operation and execution of the award passed by the Labour Court in Reference IDA No. 1 of 2006 on 5th April, 2008 is stayed, on condition that the petitioner shall file an undertaking before this Court that if the petition is dismissed, the petitioner shall pay the amount, as per the impugned award, to the respondent No.2 within two months, failing which the interim order shall stand vacated without reference to the Court.

Shri V.P. Gangane, A.G.P. waives notice on behalf of the respondent No.1 and Shri J.R. Kidilay, advocate waives notice for the respondent No.2.

The parties are at liberty to mention after decision on the issue referred and pending consideration before the larger Bench.

JUDGE