

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

WRIT PETITION NO. 4816 OF 2015

M/s. Sanjeev Auto Parts Mfg. Private Ltd.
(Through its Authorized – Dy. General Manager-HR)
M-115, MIDC, Waluj, Aurangabad. ... Petitioner

VERSUS

Bhartiya Kamgar Sena,
(Through its General Secretary)
Plot No. 8-B, Navbharat Housing society,
N-8, CIDCO, Aurangabad. ... Respondent

.....
Mr B. R. Kaware, Advocate for the petitioner
Mr Y. I. Thole, Advocate for respondent-Union.
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CORAM : **RAVINDRA V. GHUGE, J.**
(VACATION COURT)
DATE : **13TH MAY, 2016.**

PER COURT:

1. The petitioner is aggrieved by the disinclination shown by the Industrial Court, Aurangabad in hearing the parties on Application Exh. U-2 filed by the respondent-Union seeking interim relief u/s 30(2) of the M.R.T.U. & P.U.L.P. Act, 1971, after passing an *ad-interim* order dt. 23.03.2016.

2. The petitioner submits that, it has undertaken an activity of modernizing the plant. For the said purpose, certain machinery is

sought to be dismantled and removed from Plot No. M-115 and temporarily shifted at Plot No. F-104 in the same Waluj Industrial Area. It is further stated that, after the machines are dismantled and taken out, the space would be utilized for erecting an ultramodern plant and install the state of the art machinery so as to improve the business and to cater to orders for manufacturing of auto components for large scale national and multi-national companies.

3. Grievance is that, by the *ad interim* order dt. 23.03.2016 passed by the Industrial Cort, the petitioner is directed to maintain *status quo* in relation to the machineries described in para 11 of the Complaint Exh. U-1. Being aggrieved by the said order, the petitioner moved an application Exh. C-8 dt. 18.04.2016 praying to the Industrial Court that, the application Exh. U-2 filed by the respondent-Union which is pending, be heard and decided expeditiously and it was further prayed that, the *ad interim* order dt. 23.03.2016 be vacated.

4. The petitioner further submits that, the Industrial Court by its order dt. 18.04.2016 declined to hear the application Exh.U-2 since, 1628 cases are pending on its file, 9 matters are made time bound by the High Court, 93 cases are more than 5 years old and 12

cases are more than 10 years old. The petitioner, therefore, submits that the Industrial Court be directed to decide the application Exh. U-2 and in the meanwhile, modify the *ad interim* order dt. 23.03.2016, so as to enable the petitioner to shift its plant and machinery outside Plot No. M-115.

5. Shri. Y. I. Thole, learned counsel has appeared on behalf of the respondent-Union. Submission is that, reference proceedings in relation to the wage rise demands are pending before the Industrial Court/Industrial Tribunal. Four witnesses have already been examined by the respondent. Probably, one more witness would be examined after the reopening/post vacation and the respondent is likely to close its evidence.

6. He further submits that, during the pendency of the reference proceedings, the petitioner suddenly initiated action of dismantling the machineries already installed at M-115. There is no information as to what would happen with the said machineries. The workers, who are working on the said machineries, have not been taken into confidence and have not been apprised of the so called plan of the management to modernize the plant at Plot No. M-115 and install state of the art machinery.

7. He further submits that, the secrecy maintained and suspicion created by the petitioner itself compelled the respondent-Union to file complaint ULP No. 65/2016 and, hence, the Industrial Court protected the workers by passing an *ad interim* order on 23.03.2016. He submits that, if the petitioner would have come out with a clear proposal as regards its plans for modernizing the plant and installing modernized machinery, the employees could have favourably considered the said proposal. Since they were taken by surprise and were shocked that the machinery is being suddenly dismantled and taken out without being intimated about the future plans, the workers had become seriously apprehensive.

8. He further submits that, several disputed questions as well as legal issues are to be considered by the Industrial Court, including whether Section 33(1) of the Industrial Disputes Act, 1947 would be applicable to the action of the petitioner. The Union is not allergic to the hearing on application Exh. U-2 and is willing to proceed on any date after the vacation.

9. I have considered the submissions of the learned Counsel for the respective parties.

10. The petitioner contends of an obstruction / obstacle having been caused by the conduct of the Union and the order of *status quo* granted by the Industrial Court. *Per contra*, the Union has contended that, they were taken by surprise and without making them aware of the future plans, the petitioner tried to take out the machinery from the factory without prior intimation.

11. There is no dispute that the reference proceedings in relation to the wage rise demands are pending and the Union is apprehensive that the Management is coming up with different strategies to frustrate the wage rise demands. So also, it cannot be ignored that the Industrial Court's vacation would be ending on the 04.06.2016 and the Court would start functioning from 06.06.2016.

12. It is trite law that, after granting of *ex parte ad interim* relief or *ad-interim* order, as the case may be, it is incumbent upon the Court, be it the Labour Court or the Industrial Court, to decide the pending application on which the *ad interim* order is passed. Hearing on such application cannot be deferred or delayed on the ground that some matters have been made time bound and that there are many cases which are more than five years old. Section

30(2) of the Industrial Disputes Act provides for the Court to grant interim orders. In the matter of **Maharashtra State Road Transport Corpn. v. U. S. Jagdale** reported in 1999 / CLR 92, this Court has already held that after granting *ad interim* relief, the hearing on the application cannot be deferred or delayed.

13. In the light of the above and by consent of the parties, this petition is disposed of with a direction to the Industrial Court to list Complaint ULP No. 65/2016 on 07.06.2016 and cause a hearing on Application Exh. U-2 expeditiously.

14. It is expected that, the hearing of the application would be completed on or before the 15.06.2016 so as to enable the Industrial Court to pass an order on the said application on or before 02.07.2016.

15. Writ Petition stands disposed of in above terms.

[RAVINDRA V. GHUGE]
VACATION JUDGE