

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 2487 OF 2003

1. Shri D.T.Nalavade
Age-Adult, occ :Retired Deputy Director of
Vocational Education and Training
And at present Residing at I.T.I.
Complex Nasik.

2. S.S.Khadakkar
Retired Deputy Director
Vocational Education and Training
Pune
At present Residing at 19/B, Vishal Park
Vitthalwadi, Sinhgad Road,
Pune 411051.

.. Petitioners

Vs.

Shri Maruti Dhondiram Patale
Age-Adult, Occ:
Residing at 790/34, Yogeshwar Colony
Pachgaon Road, Ganesh Krupa
Kolhapur

.. Respondent

Ms.M.S.Bane -'B' Panel, Assistant Government Pleader, for the
Petitioners.

***CORAM: N.M. JAMDAR, J.
Wednesday, 17 February 2016.***

Oral Judgment :

The Petitioners challenge the order passed by the Labour Court Kolhapur and Industrial Court, Kolhapur issuing process against the Petitioners and dismissing the Revision Application filed by them.

2. The Petitioner No.1 is Retired Deputy Director of Vocational Education and Training. Petitioner No.2 is the Retired Deputy Director of Vocational Education and Training, Pune. The Labour Court Kolhapur by order dated 10 June 1999 issued a process against them under Section 48(1) of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. A Complaint was filed by the Respondent who was working in the Institute as a 'Senior Clerk-cum-Noting Assistant'. In this Complaint, the Respondent challenged the action of his transfer from the Industrial Training Institute Kolhapur to Industrial Training Institute, Murgud. An order was passed by the Industrial Court on 7 August 1995 staying the order of transfer. It appears that in the meanwhile, some other person had taken charge and the Respondent was posted in the same office, however on a different task. The Labour Court considered this as contempt of the interim order and issued process. Revision filed by the Petitioners was dismissed. Rule was issued in this petition on 16 April 2003 and interim relief was granted, which is continued till date. The Respondent is served. None appears for the Respondent.

3. I have heard the learned AGP for the Petitioners. Both the Petitioners are now long since retired and are senior citizens. They had implemented the order passed by the Industrial Court, however, upon legal advice they had posted the Respondent to a different table. The Petitioners bonafide believed that since the Respondent was relieved long time back and one person was

posted there, who was working for two years, it may not be proper to disturb that person and accommodate the Respondent on some other table. This explanation given by the Petitioners is a plausible explanation and in my opinion does not warrant a harsh step of criminal prosecution against them. The learned AGP states that considering the passage of time and the age of the Petitioners, a lenient view be taken and apology also be accepted.

4. Considering the above mentioned facts and circumstances, I am of the opinion that the impugned orders instituting process and consequent prosecution against the Petitioners is not warranted. The Writ petition is accordingly allowed. Rule is made absolute in terms of prayer clause (a) which is as follows-

'(a) this Hon'ble Court may, by way of appropriate writ Order or direction, quash and set aside Order dated 10th June 1999 by the Labour Court, Kolhapur below Exh.U-1, C-13 and C-14, in Criminal Complaint (ULP) No.22 of 1996 and Judgment and Order dated 30th December 2002 by the Member, Industrial Court, Kolhapur in Criminal Revision Application (ULP) No.4 of 1999 and set the Petitioners at liberty.'

5. No order as to costs.

(N.M.Jamdar, J.)