

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE**

WRIT PETITION NO.3723 OF 2016

Shree Aggrasen Charitable Trust And Another .. Petitioners
Versus
Smt. Seema Rajan Bansode .. Respondent

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Mr. Prathamesh B. Ghargude for the Petitioners.
Mrs. Anjali Neel Helekar for Respondent.

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CORAM : S.C.GUPTE, J.

DATE : 14 JULY 2016.

Order :

. This Writ Petition challenges an interim order passed by the First Labour Court at Pune on the application of the Respondent. The order directs the Petitioner herein to reinstate the Respondent temporarily on her work as 'Aaya' with same wages and other benefits from 14 December 2015 till disposal of the complaint. Nearly after one year of filing of the complaint, the Labour Court has passed this interim order directing the reinstatement of the Respondent, practically awarding relief in the nature of a final relief.

2 Learned Counsel for the Respondent submits that interim relief such as the one awarded by the Court in the present case can very well be granted. She relies on a decision of a learned Single Judge of this Court in

case of **Mahindra & Mahindra Limited Vs. Dwarkanath Babaji Dalvi**¹. In that case, the learned single Judge considered the parameters for grant of interim relief. He reiterated the three well established principles in this behalf, namely, (i) *prima facie* case, (ii) irreparable loss and (iii) balance of convenience to be considered in any application for interim relief. No doubt, in an appropriate case, relief in the nature of final relief, which is considered ancillary to the main relief available to a party upon final determination of his rights in a suit or proceeding, can be granted. However, there must be special facts and circumstances which necessitate granting of such relief, which is quite drastic as far as interim reliefs go.

3 If one has regard to the present case, particularly the pleadings of the Respondent - workwoman and the impugned order of the Labour Court, there is nothing to show any circumstance requiring such drastic relief to be granted to the Respondent. The case of the Respondent was that she was removed by the Petitioners without following due procedure. Based on the material available before the Court, the Labour Court came to the conclusion that the probability of creating a concocted complaint against the Respondent cannot be ruled out. On the basis of the material the Court also came to the conclusion that there was no proper inquiry made into the alleged incident prior to termination of the Respondent's service. Ordinarily, the Labour Court ought to have disposed of a complaint like this expeditiously. After over 14 months of filing of the complaint, the Court cannot simply pass an interim order in the nature of final relief and keep the complaint pending.

1 2006(3) Bom. C.R. 805

4 Interests of justice demand that the main complaint itself be disposed of expeditiously and the stay operating in the matter insofar as the interim order is concerned, be continued to operate till such disposal.

5 In the premises, the Labour Court at Pune is directed to dispose of the Respondent's complaint, namely, Complaint (ULP) No.124 of 2014, as expeditiously as possible and in any event within four months from today.

6 The Petitioner also raises an oral plea concerning the jurisdiction of the Labour Court. It is submitted the Respondent was employed as a peon and that her services are governed by the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. There is no such pleading either in the written statement or even in the petition herein. In any event, it is a matter for the Labour Court to decide as and when the Petitioner raises such plea before it. If so raised, the Labour Court shall consider the plea in accordance with law. All rights and contentions of the parties on such plea are kept open.

7 The Petition is disposed accordingly.

(S.C.GUPTE, J.)