

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6107 OF 2016**

M/s. Walsons Services Private Ltd.

..Petitioner

Vs.

Maharashtra Rajya Mathadi Kamgar Sena

..Respondent

Mr. S. S. Hegde a/w Mr. Chaitanya Torgal for the Petitioner

Ms Ketaki Rege for the Respondent

CORAM : R. M. SAVANT, J.

DATE : 26th AUGUST, 2016

P.C.

1 The order dated 23-2-2016 passed by the Learned Member of the Industrial Court, Mumbai dismissing the Review Application being Review ULP No.27 of 2015 is taken exception to by way of the above Petition. The review has been sought of the order dated 28-3-2014 passed below Exhibit U-2 and the order dated 5-12-2015 passed below Exhibit U-17 in complaint ULP No.86 of 2014.

2 The genesis of the order dated 5-12-2015 is in the order dated 28-3-2014 passed on Exhibit U-2. The said Exhibit U-2 is an application for interim reliefs filed by the Respondent-Union seeking protective reliefs in respect of the workmen whose cause, it is espousing in the complaint filed by it being Complaint ULP No.86 of 2014. By the said order dated 28-3-2014 an interim order was passed restraining the Petitioner from terminating the

services of the workmen whose cause it was espousing in the said Complaint ULP No.86 of 2014. It seems that after the order dated 28-3-2014 came to be passed by the Industrial Court, the Petitioners terminated the services of about 4 workmen allegedly on the ground that they were misconducting themselves. In view of the said termination, the Union filed application Exhibit U-17 under Section 48 of the MRTU and PULP Act for action being taken against the Petitioner for breach and violation of the said order dated 28-3-2014 passed on application Exhibit U-2.

3 In so far as the said application Exhibit U-17 is concerned, a show cause notice has been issued to the Petitioner asking the persons in management to show cause as to why action under Section 48(1) should not be taken against them. The instant Review Application has been rejected on the ground that the order dated 28-3-2014 is an ad-interim order and the application Exhibit U-2 is still pending. The Learned Member of the Industrial Court has also observed that no case for review of the said order dated 28-3-2014 and 5-12-2015 has been made out.

4 The Learned Counsel appearing on behalf of the Petitioner sought to raise contentions as regards the jurisdiction of the Industrial Court to entertain the complaint as also for passing the two orders i.e. order dated 28-3-2014 and the order dated 5-12-2015.

5 In my view, since the application Exhibit U-2 filed for interim relief is as yet not finally adjudicated, it is not necessary for this court to delve into the said aspect. It would be open for the Petitioner to urge such contentions as are available in law to them whilst opposing the said application Exhibit U-2. Since the order dated 5-12-2015 passed on Exhibit U-17 has its basis in the order dated 28-3-2014, it is not necessary to interfere with the said order as the decision in the application Exhibit U-2 would have its impact on the consideration of the application Exhibit U-17. Hence leaving the contention of the parties open including on the point of jurisdiction, there is no warrant to interdict with the impugned order. The Industrial Court is directed to hear and decide the Application U-2 expeditiously and not later than 30-11-2016. With the directions as aforesaid the Writ petition is dismissed.

6 Needless to state all the contentions of the parties are kept open for being urged before the Industrial Court.

[R.M.SAVANT, J]