

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.8177 OF 2016

Bhartiya Kamgar Sena	...	Petitioner
Versus		
Krantikari Kamgar Union And Another	...	Respondents

Mr. Milan Topkar for the Petitioner.
Ms. Jane Cox a/w Mr. Manmohan A. Amonkar for Respondent No.1.

CORAM : S.C.GUPTE, J.

DATE : 27 JULY 2016.

P.C. :

. Heard learned Counsel for the parties.

2 The Writ Petition challenges an interlocutory order passed by the Industrial Court at Kolhapur, being an application presented under Section 14 of the M.R.T.U. & P.U.L.P. Act 1971 by first Respondent-union. By this impugned order, the first Respondent-union's application for amendment was allowed by the Industrial Court.

3 The amendment seeks to add certain events which had transpired before the filing of the subject application under Section 14 of the Act and which had resulted into a complaint of unfair labour practice by the first Respondent-Union, which was pending before the same Industrial Court. The main opposition to the application for amendment was on the grounds, firstly, that the trial of the application under Section 14 had already started

and secondly, there was no explanation why the amendment was brought in at the present point of time, i.e. after a delay of about three years.

4 Both these grounds have been adequately dealt with by the Industrial Court in the impugned order. The Industrial Court held that the trial had not actually started inasmuch as issues were not framed in the application and the stage of leading of evidence had not reached. Relying on judgment of the Supreme Court in the case of **Vidyabai Vs. Padmalatha**¹, the Industrial Court held that the date on which issues are framed is the first date of hearing and filing of affidavit in lieu of examination-in-chief of the witness would amount to commencement of trial, and accordingly, The trial in the present case had yet to commence.

5 On the question of delay in bringing the amendment, the Industrial Court came to the conclusion that the amendment sought was necessary to determine the controversy in the dispute conclusively; and that mere delay, which could well be compensated in terms of money, could not be a ground to deny the amendment, as such denial would result into defeating of the ends of justice.

6 No infirmity can be found either with the approach of the Industrial Court or the conclusion drawn by it on the basis of the material before it. The petition has no merit and the same is, accordingly, dismissed. No order as to costs.

¹ AIR 2009 SC 1433

7 The first Respondent-union may carry out the amendment in accordance with the impugned order within a period of two weeks from today.

(S.C.GUPTE, J.)