

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

WRIT PETITION NO.9425 OF 2016

Shri. Ganpat Baburao Biradar

.. Petitioner

Versus

Divisional Traffic Superintendent

MSRTC Thane Division

Opp: Vandana Talkies,

Naupada, Thane and another

.. Respondents

Shri. Shaikh M. Aslam for the Petitioner.

Shri. G. S. Hegde for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 18th AUGUST 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 16.07.2016 passed by the Learned Member of the Industrial Court, Thane, by which order, the Revision Application being Revision Application (ULP) No.30/2015 came to be dismissed and resultantly, the order dated 19.03.2015 passed by the Learned Judge of the First Labour Court, Thane, rejecting application Exh.U-2 filed by the Petitioner for interim reliefs came to be confirmed.

2 The Petitioner is working as a conductor with the Respondent

No.1, Maharashtra State Road Transport Corporation. The allegation against the Petitioner was of defalcation of an amount of Rs.16/- by not issuing ticket to the passengers though they have paid for the same. In so far as the said allegation is concerned, the same is a matter of charge-sheet issued to the Petitioner pursuant to which an inquiry was held and which inquiry was completed and a show cause notice came to be issued to the Petitioner, upon which the Petitioner herein filed Complaint (ULP) No.120 of 2011 alleging unfair labour practice against the Respondent No.1 under Items 1(a), (b), (d), (f) and (g) of Schedule IV of MRTU and PULP Act, 1971. In the said complaint, the Petitioner filed an application for interim reliefs being Exh.U-2. The said application came to be rejected by the Learned Judge, First Labour Court by order dated 19.03.2015.

3 The gist of the reasoning of the Learned Judge of the Labour Court was that the Petitioner i.e. Complainant is allegedly involved in serious charge of misconduct and that the said charge is of the public revenue and therefore the inquiry or the show-cause notice cannot be stayed. The Learned Judge therefore held that the Complainant had failed for make out a prima-facie case for the grant of interim relief and as indicated above has accordingly rejected the said application by order dated 19.03.2015.

4 The Petitioner aggrieved by the said order dated 19.03.2015 passed by the Learned Judge of the Labour Court challenged the same by way of a Revision filed under Section 44 of the MRTU and PULP Act, 1971. The Revisionary Court i.e. the Industrial Court reiterated the finding of the Labour Court by observing that the Complainant is involved in a serious charge of misconduct and there would be loss of Rs.16/- to the Respondent No.1 Corporation and that the misconduct levelled against the Complainant is related to public revenue. The Industrial Court therefore did not find any reason to interfere with the order passed by the Labour Court. Hence, both the Courts below have concurrently held that in the facts and circumstances of the case where a serious misconduct of not issuing tickets and thereby seeking to defalcate an amount of Rs.16/- is levelled against the Complainant, no interim reliefs could be granted to the Complainant. In my view, having regard to the said concurrent orders, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]