

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10310 OF 2016**

Suresh Ajunkya Chitte

..Petitioner

Vs.

M/s. D. B. Corp LTD & Ors

..Respondents

Mr. Rajesh A. Tekale for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 6th SEPTEMBER, 2016

P.C.

1 The order dated 16-8-2016 passed by the Learned Member of the Industrial Court is taken exception to by way of the above Petition. By the said order, the application Exhibit U-2 for interim reliefs came to be rejected, however, the Respondents were directed to grant a reasonable time to the Petitioner to resume its duties at the place of his transfer.

2 The Petitioner was working as a sub-editor with the Respondent No.1 which publishes a group of news papers all over the country. The appointment letter issued to the Petitioner provides for his services being transferred to any of the offices of the Respondents. By letter dated 3-8-2016, the Petitioner was transferred to the Jamshedpur Unit from the Nashik Unit in the editorial department and was asked to report to the resident editor. In response to the said transfer letter dated 3-8-2016, it seems that the Petitioner

sought reasonable time to report at the place of his transfer. The Petitioner contemporaneously filed Complaint ULP No.157 of 2016 invoking the provisions of the MRTU and PULP Act 1971 and especially item 3 of Schedule IV for declaration of unfair labour practice against the Respondents. In the said complaint, the Petitioner filed an application Exhibit U2 for interim reliefs thereby seeking a stay to the said transfer. The relief sought vide the said application Exhibit U2 has been rejected inter alia on the ground that the issue of jurisdiction, on the touchstone of whether the Petitioner is a workman or not would have to be decided and therefore the said court cannot proceed to grant interim relief in favour of the Petitioner i.e. the Complainant and secondly on the ground that the Petitioner has accepted the transfer order but has only sought time to join at the place of transfer.

3 As indicated above, the appointment of the Petitioner was on the condition that his services were transferable. At the prima facie stage the issue of the transfer being malafide without an inquiry being conducted, cannot be accepted. In the light of the reasons mentioned by the Learned Member of the Industrial Court, no interference is called for with the impugned order. However, it is expected that the Respondents would grant reasonable time to the Petitioner to report at the place of transfer.

4 In so far as the issue of jurisdiction is concerned, the Industrial

Court may frame an issue in that respect and adjudicate the same expeditiously as the parties would then know where they stand. Save and except the aforesaid directions, the Writ Petition is dismissed.

[R.M.SAVANT, J]