

Sequeira

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

WRIT PETITION NO. 10945 OF 2015

Thane Municipal Transport
Undertaking and anr.

.. Petitioners

Vs.

Atmaram Gopal Shinde & anr.

.. Respondents

Mr.Mandar Limaye, for Petitioners.

Mr.Shaikh Mohammed Aslam, for Respondent Nos.1 & 2.

***CORAM: N.M. JAMDAR, J.
Tuesday, 09 February 2016.***

PC. :

Rule. Rule made returnable forthwith. Respondents waive service. Taken up for final disposal.

2. The Petitioner, a Municipal Transport undertaking challenges the interim order passed by the Industrial Court, Thane dated 15 July 2015 directing the Petitioner- undertaking to take steps to assess legal dues of the Respondents and deposit the amount under protest in the Industrial Court.

3. I have heard the learned counsel for the parties and have gone through the impugned order passed by the Industrial Court.

4. The Complaint filed by the Respondents seeking dues regarding Selection Grade is pending for determination before the

Industrial Court. The Petitioner Corporation has contested the claim of the Respondents. The Industrial Court after considering the merits of the Complaint and after considering certain resolutions of the Petitioner Corporation recorded a prima facie finding that the Petitioners are engaged in unfair labour practice and if order of interim relief is not granted the Respondents will suffer financial loss. On what basis this finding is arrived at is not understood. The case is yet to be tried on merits. If the Respondents succeed they will be entitled to recover their claim. No reason has been given in the impugned order why at an interim stage the Petitioner-undertaking, a public body, should deposit the claim made by the Respondents. The impugned order has not recorded any finding that if Respondents succeed it will not be possible for them to recover the amount from the Petitioner Corporation or that the financial condition of the Petitioner-undertaking is unsound so that if the amount is not deposited, now the Respondents will not be able to recover the same. There is no propriety in such a case in simply directing the public body to deposit public money, to be locked up in the Court, which is otherwise available for providing public amenities.

5. If the Industrial Court is of the opinion that the Respondents have good case on merits and that a priority needs to be given for hearing of the Complaint, it is always open for the Industrial Court to do so.

6. In the circumstances, the impugned order passed by the Industrial Court cannot be sustained. The impugned order dated

10 July 2015 is quashed and set aside. It is open for the Industrial Court to dispose of the Complaint early, if the Industrial Court feels that any further delay in disposal of the Complaint will lead to injustice. The Writ petition is accordingly disposed of in above terms. No order as to costs.

(N.M.Jamdar, J.)