

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5220 OF 2001

Agricultural Produce Market Committee
Chalisgaon District Jalgaon,
Through its Chairman

-- PETITIONER

VERSUS

Vasantrao Raosaheb Deshmukh,
Age-58 years, Occu-Nil,
R/o Shivaji Ghat Chalisgaon,
Dist.Jalgaon

-- RESPONDENT

Mr.A.S.Deshpande, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 20/11/2017

ORAL JUDGMENT :

1. Heard learned Advocate for the petitioner. None for the respondent.

2. The petitioner is aggrieved by the interlocutory order dated 09/01/2001 passed by the Labour Court thereby allowing the application for interim relief filed by the respondent in Complaint (ULP) No.288/2000. By the impugned order, the Labour Court has observed as under :

"A) Application for interim relief filed by the complainant is hereby partly allowed.

B) Respondent is hereby directed to withdraw unfair practices stated in para 16 of this order temporarily and to take affirmative action and not to dispense with the services of the complainant by way of dismissal / discharge / termination etc. during the pendency of main complaint.

C) Respondent is at liberty to impose any other punishment except above stated major punishment.

D) Parties are at liberty to proceed with the matters on day to day basis to enable this Court to dispose off the main complaint on or before 30.4.2001.

E) Respondent to file W.S. on next date i.e. on 17.1.2001. Parties are hereby directed to appear before this Court on 17.1.2001.

F) No order as to costs."

3. The petitioner is also aggrieved by the impugned order dated 05/03/2001 passed by the Industrial Court, by which the application Exhibit C-2, seeking a stay in Revision (ULP) No.33/2001 filed by the petitioner, has been rejected.

4. I find that an issue of a department/domestic enquiry is the subject matter of the adjudication before the Labour Court. The manner in which the issues are to be cast and the fairness of the findings of the Enquiry Officer are to be taken up as a Part-I order/

judgment, has been settled by the Hon'ble Apex court in the matter of Workmen of Motipur Sugar Factory Private Ltd., Vs. The Motipur Sugar Factory Private Limited, AIR 1965 SC 1803. The said law is in place for the last more than 50 years.

5. This Court has dealt with such matters by considering the scheme of law in the cases of Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd., and another Vs. Vasant Ambadas Deshpande [2014(3) Mh.L.J. 339 = 2014(1) CLR 878] and in the matter of MSRTC, Beed Vs. Syed Saheblal Syed Nizam, reported at 2014(3) CLR 514. It is, therefore, trite that until the fairness of the enquiry is considered and adjudicated upon, interim relief in the nature of which has been granted by the Labour Court, is an anathema.

6. By order dated 20/12/2001, this Court has admitted the petition and has granted interim relief in terms of prayer clause 'C-1' thereby staying the impugned order passed by the Labour Court dated 09/01/2001.

7. Considering the law and the fact that 16 years have lapsed after the petition was instituted, I find that this petition deserves to be allowed. The same is, therefore, allowed in terms of prayer clause

C-1. Needless to state, the Labour Court shall proceed to decide Complaint (ULP) No.288/2000 filed by the respondent herein, by framing the appropriate issues as is laid down in the judgment of this Court in the matters of Vasant Ambadas Deshpande and Syed Saheblal Syed Nizam (supra) and shall decide the said complaint as expeditiously as possible and preferably on or before 31/10/2018, if not already decided. Consequentially, Revision (ULP) No.33/2001, if not already decided by the Industrial Court, is rendered infructuous and stands disposed of.

8. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)