

Writ Petition No. 01752 of 2017

District : Nanded

versus

1. Tuljabhavani Niwasi Apang
Karyashala,
Vasrani,
Taluka & Dist. Nanded,
Through its President,
R/o. Vasrani,
Taluka & Dist. Nanded.
2. Social Welfare Officer,
Class-A,
Zilla Parishad, Nanded.
3. Udaygiri Yuvak Mitra Mandal,
Navandi,
Taluka Udgir,
District Latur.

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Mr. Shrikant S. Patil, Advocate, for the petitioner.

Mr. S.B. Ghatol Patil, Advocate, for respondent no.01.

Mr. R.K. Ingole Patil, Advocate, for respondent no.02.

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 20TH FEBRUARY 2017

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith and

heard finally by the consent of the parties.

02. The petitioner is aggrieved by the order dated 13.07.2016, passed by the Labour Court, Nanded, by which Misc. IDA Restoration No. 01/2015 has been rejected.

03. I have heard the learned Advocates for the respective sides and have considered the reply filed by respondent no.01 (wrongly mentioned as respondent no.02) dated 14.02.2017.

04. The only issue raised before this Court is as to whether the Labour Court has rightly rejected the application for restoration by the impugned order.

05. Section 31 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 [**For short, "MRTU & PULP Act"**], enables a litigant to approach the same Court, either Labour Court or the Industrial Court for setting aside the *ex parte* order, within 30 days of the receipt of the copy of such order.

06. Similar provision is also available under Section 31 of the Industrial Disputes Act, 1947 whereby a litigating side could approach the Labour Court or the Tribunal within 30 days from the date of the publication of the *ex-parte* award. The Application I.D.A. No. 12/2010 preferred by the petitioner under Section 33C(2) of the Industrial

Disputes Act, 1947 was dismissed in default on 26.10.2015. The Misc. Application for restoration was preferred by the petitioner on 21.11.2015 which is within 30 days from the date of dismissal of the main application.

07. The learned Labour Court while delivering the impugned order, concluded that the original applicant - petitioner herein has been negligent and has not explained the delay. In my view, there was no delay in filing the restoration application since the same has been preferred on 21.11.2015 which is within 30 days from the date of the order i.e. 26.10.2015.

08. In the fact situation as above, it is expected that the Court would take a pragmatic view in such matters so as to ensure that the ends of justice would meet. Had the petitioner caused an inordinate delay in seeking restoration of his proceedings, it could then have been concluded that he does not deserve the said liberty. When the application is preferred within 30 days, it indicates that the petitioner is interested in the litigation and desires to prosecute his application.

09. Considering the above, this petition is allowed. The impugned order dated 13.07.2016 is quashed and set aside. Application I.D.A. No. 12/2010 is restored to the file of the Labour Court at Nanded and all litigating sides who are before this Court, shall appear before the Labour Court on

18.03.2017.

10. The petitioner shall refrain from seeking any adjournments on unreasonable and trivial grounds. Needless to state, that the Labour Court shall decide the said Application on its own merits.

11. Keeping in view that the petitioner has already withdrawn 50 % of the amount deposited before the Labour Court, he shall tender a fresh undertaking supported by affidavit on the date of appearance before the Labour Court to the effect that in the event, he fails in this litigation, he shall re-deposit the said amount without interest in the Labour Court within six weeks from the date of such adverse order.

12. Considering an earlier order dated 10.08.2016 passed by this Court in between these parties, in Writ Petition No. 1356 of 2014 and Writ Petition No. 1360 of 2014, the Labour Court shall endeavour to decide the proceedings before it, as expeditiously as possible and preferably on or before 29th September, 2017.

13. Rule is made absolute in the above terms.

(Ravindra V. Ghuge)
JUDGE

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