

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 5321 OF 2016

Shri. Rajaram Shankar Nimbalkar	...Petitioner
<i>Versus</i>	
Kolhapur Institute Of Technology	
And Anr.	...Respondents
....	
Mr.Meelan Topkar, Advocate for the Petitioner.	
Mr.N.V. Bandiwadekar, Advocate for Respondents.	
....	

CORAM : R. G. KETKAR, J.

DATE : 18th JULY, 2017

P.C.

1. Heard Mr.Meelan Topkar, learned counsel for the petitioner and Mr.N.V. Bandiwadekar, learned counsel for respondents, at length.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 27.1.2016 passed by the learned Member, Industrial Court No.2, Kolhapur (for short, 'Tribunal') below Exhibit-U-2 in Complaint (U.L.P.) No.76/2015. By that order, the Tribunal rejected the application made by the petitioner/complainant *inter alia* praying for direction to the

respondents not to deduct the wages paid to him for the additional work of Electrician as per their directions till the disposal of the complaint; not to reduce his pay-scale to Rs.4440-7440 till disposal of the complaint; stay to the order dated 8.5.2015 till the disposal of the complaint. The Tribunal rejected the application mainly on the ground that in view of Section 59 of the Maharashtra Universities Act, 1994 (for short, 'Act'), any teacher or other employee in any University, College or recognized Institution managed or maintained by Central Government, State Government or Local Authority who is dismissed or removed or whose services are otherwise terminated or who is reduced into rank by the concerned authority and who is aggrieved shall have right of appeal and any appeal against such order shall lie to the Tribunal established under the Act. The Tribunal held that in view of Section 59 of the Act, the Tribunal has no jurisdiction to entertain and try the complaint.

3. The Petition was heard at length on earlier occasions and at the request of Mr. Topkar it was adjourned till today so as to enable him to obtain instructions. Mr.Topkar states that he has obtained telephonic instructions from the petitioner as also

from instructing Advocate to the effect that the petitioner will withdraw this Petition as also complaint and file appeal under Section 59 of the Act before the Tribunal within four weeks from today. He further submits that on 5.5.2016, this Court directed the respondents not to recover any amount from the salary of the petitioner in pursuance of the order dated 16.2.2016. He prayed that said interim order may be continued for a period of six weeks from today so as to enable the petitioner to obtain appropriate interim order in the appeal proposed to be filed.

4. Mr. Bandiwadekar submitted that it may be clarified that continuation of the interim order dated 5.5.2016 will not influence the Tribunal while deciding the application for interim order and same may be directed to be disposed of in accordance with law.

5. In view thereof, on the motion made by Mr. Topkar, Petition is allowed to be withdrawn with liberty to file appeal before the Tribunal. If the appeal is filed within four weeks from today, the time spent by the petitioner in prosecuting the complaint and present Petition from 21.5.2015 till date shall be excluded by the Tribunal. The petitioner shall also file an

application for interim relief along with the appeal. The order dated 5.5.2016 passed by this Court shall continue to operate for a period of six weeks from today and shall stand dissolved automatically thereafter. Continuation of the ad-interim order shall not be construed as an expression on merits of the case and the Tribunal will decide the application for interim order on its own merits and in accordance with law uninfluenced by this order. All contentions of the parties on merits are expressly kept open. The complaint filed by the petitioner stands withdrawn. Petition is disposed of as withdrawn with liberty as prayed for. Order accordingly. The petitioner shall file authenticated copy of this order before the Tribunal for formally passing order of withdrawal.

(R. G. KETKAR, J.)

Deshmane (PS)