

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9766 OF 2017**

M/s. Aditya Vidyut Appliances Limited And Ors. ...Petitioners

vs

Dharmarajya Kamgar Karmachari Mahasangh ...Respondent

.....

Mr. Pramod Anaokar, for the Petitioners.

Mrs. Neeta Karnik, for the Respondent.

.....

CORAM : PRASANNA B. VARALE, J.

DATED: 31 AUGUST, 2017

P.C. :

. Heard learned Counsel for the Petitioners as well as learned Counsel for the Respondent.

2. The petition challenges the order passed by learned Member Industrial Court, Thane, dated 25 July 2017. The facts in brief can be summarized giving rise to the petition, namely, the complainant Union, approached the learned Member, Industrial Court, against the transfer effected on its four members. The submission of the complainant was that the transfer order was a malafide transfer order, whereas it was the submission of the Respondents, i.e the Petitioners herein, that considering the exigency of the work, the transfer order is effected. Learned Member, Industrial Court though specifically observed that the exigency of the work is to be decided by the management and transfer of an employee is prerequisite of management. Learned Member, on a preliminary assessment, found that the transfer order smacks malafide.

Learned Counsel appearing for the parties were apprised that the issue involved in the complaint is a limited controversy, namely, the transfer order, and the learned Member, Industrial Court is yet to decide the complaint on its own merits. If the learned Member, Industrial Court is directed to decide the complaint within a stipulated period on merits, such an exercise would be in the interest of both the parties. Adopting such an exercise, the time, which may consume in deciding the complaint and operating the interim order for an indefinite period can certainly be avoided. Both learned Counsel fairly submitted that such a direction can be issued to the learned Member, Industrial Court. Considering the above referred facts, I am of the opinion that the interest of justice can be served by directing learned Member, Industrial Court, Thane, to decide the complaint itself on merits within a stipulated period and, in any case, not later than 31 December 2017. The interim order passed by the learned Member to continue till the decision of the complaint as directed by this Court, i.e. 31 December 2017. It is made very clear that this Court has not expressed any opinion on the merits of the complaint. Learned Member to decide the complaint on merits. Needless to say, by giving an equal opportunity of hearing to the parties, including if the parties wish to lead evidence, they be permitted to do the same and I hope and trust that the Member, Industrial Court would assess the evidence and decide the complaint on merits as directed by this Court within a stipulated period, i.e. before 31 December 2017.

3. The parties to act on the certified copy of the order.

(PRASANNA B. VARALE, J.)