

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4090 OF 2014

(DR. PUNJABRAO DESHMUKH KRISHI VIDYAPEETH & ANR...VS.. SURYABHAN MANOJ GAKHARE & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. U.A.Patil, Advocate for Petitioners.
Shri Alok Daga, Advocate for Respondent No.1.
Shri A.R.Chutke, A.G.P. for Respondent No.2.

CORAM : Z.A.HAQ, J.

DATED : OCTOBER 06, 2017.

Heard.

The petitioner University (Employer) has challenged the order passed by the Industrial Court by which the complaint filed by the petitioner under Section 28 read with Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 is allowed. The Industrial Court has directed the petitioners/ employer to regularize the services of the respondent/ employee with all consequential benefits.

By an order passed on 8th April, 2015 this Court has issued Rule, however, the prayer for interim order is rejected.

The Civil Application No.1243 of 2017 is filed by the petitioner seeking permission to amend the petition and Application No.784 of 2016 is filed for grant of stay. At the time of consideration of the civil applications, the learned A.G.P. has pointed out the communication sent by the

Registrar of the petitioner No.1-University to the Principal Secretary(Agriculture), Agriculture, Dairy Development and Fisheries, Mantralaya, Mumbai on 23rd September, 2017. Clause (3) and clause (5) of this letter read as follows:

“3. We can comply with the order of Industrial Court and absorb Shri Gakhare in one of the vacant post of University.

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5. Section 54 of MAU Act does not apply here as it does not involve creation of new post but adjusting him in one of the vacant post of Mazoor consequent to the court Judgment.”

A copy of this letter is taken on record. It is pointed out that this exercise is undertaken after filing of Civil Application No.1244 of 2017 by which the petitioners have sought directions to the State Government.

In view of the categorical representation made by the petitioner University to the State Government that it can comply with the order of the Industrial Court and absorb Shri Gakhare (respondent-employee) in one of the vacant post available with the University and that Section 54 of the Maharashtra Agricultural Universities Act will not be attracted in the present case as the post in which the respondent/employee is to be absorbed is vacant and it will not amount to creation of new post, in my view, the challenges in the petition are rendered infructuous and does not require any adjudication. The learned Advocate for the petitioners could not controvert the factual details recorded in the above referred communication.

In view of the above, the petition is **dismissed**. The Civil Application No. 1243 of 2017 and Civil Application No. 784 of 2016 are also dismissed. In the circumstances, the parties to bear their own costs.

The learned advocate for the respondent No.1 / employee has made a grievance that though this Court has refused interim order on 8th April, 2015, the petitioners have not complied with the directions given by the Industrial Court.

The advocate for the petitioner has submitted that the order will be complied till 6th November, 2017. The petitioners to file compliance report till 10th November, 2017.

JUDGE

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