

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD***

61. WRIT PETITION No. 12094 of 2018

Swamee Ramanand Teertha Marathwada University, Nanded, through its Registrar	...	Petitioners
Versus		
Kailash Murlidhar Hambarde	...	Respondent

*WITH
WRIT PETITION No. 12091/2018*

Swamee Ramanand Teertha Marathwada University, Nanded, through its Registrar	...	Petitioners
Versus		
Ranoji Yadavrao Hambarde and others	...	Respondents

*WITH
WRIT PETITION 12092/2018*

Swamee Ramanand Teertha Marathwada University, Nanded, through its Registrar	...	Petitioners
Versus		
Dasrao Madhavrao Hambarde and others	...	Respondents

Mr. U.S. Malte, Advocate for petitioner in all petitions
Mr U.S. Sawji, Advocate for respondents in all petitions.

Coram : N.M. Jamdar, J.

Date : 27 November 2018.

ORAL ORDER :

1. By these petitions, the petitioner-University has challenged three orders passed by the Industrial Court, Jalna. These orders are dated 15 December 2017, 7 April 2018 and 6 September 2018.

2. The respondents have filed complaint (ULP) No. 41 of 2013 seeking confirmation in service. In this complaint the impugned orders have been passed. As far as orders dated 15 December 2017 and 6 September 2018 are concerned, they grant adjournment on the condition of costs of ₹ 500/- payable to the respondents/complainant-employees. The order dated 6 September 2018 is passed below an application for recalling order of imposing costs of ₹ 500/-. The third order that has been passed is dated 7 April 2018 by which the evidence of the petitioner is closed.

3. The learned Counsel for the respondent-employees submitted that in view of the pendency of these petitions, the proceedings in the complaint have been stayed and the same have not been proceeded and, therefore, the respondents have no objection if an opportunity is given to the petitioner to lead evidence as the respondents are interested in proceeding with the complaint. Therefore, as far as leading further evidence by the petitioner is concerned, in view of the stand taken by the learned Counsel for the

respondents, indulgence can be granted in favour of the petitioner. Accordingly the Industrial Court will permit the petitioner to lead further evidence in the matter. The order closing the evidence of the petitioner is set aside.

3. It is informed that the application for leading secondary evidence is also pending. Same be decided by the learned Industrial Court as per law at the earliest.

4. Coming back to the orders passed on 15 December 2017 and 6 September 2018, the first order is of 15 December 2017 which order states that “*sufficient chances have already been granted, however, adjournment is granted on the condition to pay Rs. 500/- to the complainant*”. Having accepted the indulgence of grant of adjournment, instead of paying the costs, the University filed an application for review. The learned Industrial Court rightly termed the application as perverse and rejected the same.

5. The learned Counsel for the petitioner has sought to advance various arguments in respect of the imposition of costs and how diligently the matter is being prosecuted. It is to be noted that the petitioner is a University established under the Maharashtra University Act and is a statutory body. It is this statutory body which

has chosen to contest payment of costs of ₹ 500/- upto this Court. The Industrial Court, considering the fact that the complaint was pending for 8 years, was naturally anxious to proceed with the same. The Industrial Court has also referred to the Drive undertaken to dispose of the older matters. If to bring a sense of discipline amongst the litigants to eschew adjournments, nominal costs were imposed, there was nothing wrong, instead it appears to have been made a matter of ego. Instead of paying costs and further proceeding with the matter, further litigation has been created leading to filing of the present petition. This conduct of the University has to be deprecated. Needless to say that these orders regarding imposition of costs cannot be interfered with. In fact, this is a fit case for imposition of costs. The Writ Petitions are dismissed with the costs of ₹ 5000/- (₹ Five thousand only), each.

6. Considering the fact that complaints are pending since the year 2008 and 2010 and that the respondents have taken a fair stand to permit the petitioner to lead evidence in-spite of the order in their favour, the learned Industrial Court will make an endeavour to dispose of the application at the earliest, preferably within a period of one year from today.

N.M. Jamdar, J.