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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4069 OF 2018

Cleanex Hospitality

... Petitioner

vs.

Maharashtra Rajya Rashtriya

... Respondents

Kamgar Sangh & Ors.

.....

Mr. Rahul Nerlekar for the Petitioner.

Mr. B. J. Sawant i/b. Mr. Rakesh Sawant for Respondent no. 1.

.....

CORAM : A.K. MENON, J.

DATE : 2nd MAY, 2018

P. C.

1. By this Writ Petition the petitioner seeks challenge to an order dated 29th January, 2018 passed in interim application filed in Complaint (ULP) No. 268 of 2017 whereby respondent no. 4 -petitioner was directed to deposit a sum of Rs.5000/- per employee in respect of persons listed in the annexure to the complaint. The complaint itself seeks a declaration that the respondent had engaged in unfair labour practices.

2. It is the case of the petitioner that it is a proprietary concern holding licences of contractor to provide manpower services. It has engaged certain workmen to serve respondent no. 2 - Mahatma Gandhi Mission Hospital, Navi Mumbai. The impugned order records that by interim application dated 10th October, 2017 the

original complainant union sought an order directing the petitioner – contractor to deposit amount of bonus for the year 2016-17. Mr. Nerlekar, learned counsel for the petitioner submitted that the petitioner was exempt from the provisions of payment of bonus by virtue of provisions of Section 32(v) of the Payment of Bonus Act, 1965 and hence there was no occasion for directing any deposit. This aspect is still at large before the Industrial Court. I find that the provision of Section 32(v) specifically deal with employees employed by the Indian Red Cross Society, Universities and other Education institutions as well as other institution including hospitals, chambers of commerce and social welfare institutions which are established not for the purposes of profit (*emphasis supplied*)

3. In the instant case the petitioner is a proprietary concern and prima facie does not appear to qualify for exemption under section 32(v). Having perused the impugned order and upon hearing the learned counsel I find nothing perverse. In the circumstances, I decline to interfere with the impugned order in the writ jurisdiction of this Court. In the circumstances, I pass the following order :

- (i) Writ Petition is dismissed.
- (ii) No order as to costs.
- (iii) The Application Complaint (ULP) No. 268 of 2017 will be decided in accordance with law without being influenced by the observations of this Court.

(A.K. MENON, J.)