

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

952 WRIT PETITION NO.4011 OF 2019

EXIDE INDUSTRIES LIMITED
VERSUS
RASHTRAVADI MAHARASHTRA GENERAL KAMGAR UNION AND
ANOTHER

...

Adv.for Petitioner : Adv. Mitra Das & Adv.Jayeeta Das,
Advocates h/for Mr. Dankh Sachin V. & Deshmukh Lalit B.

Mr. Ashok Patil, Advocate for Respondent No.1;

Mr. PV Barde, Advocate for Respondent No.2.

CORAM : P.R. BORA, J.
DATED : 27th March, 2019.

PER COURT:-

1. Though extensive arguments are made by the learned counsel appearing for the parties, the grievance made in the present petition, can be brought into a very narrow compass that before passing the impugned order, the Industrial Court did not give adequate opportunity of hearing to the petitioner.

2. Perusal of the impugned order reveals that an application for adjournment was filed by the advocate of the applicant and the same was strongly opposed by the other side. A prayer was made in the say submitted to the said application

by other side to grant ad interim relief as prayed by the applicant union in the application MRTU No. 2 of 2017. The industrial court has accordingly passed the impugned order.

3. It is quite clear from the impugned order that adjournment was sought for argument by the learned counsel for the petitioner, but, it was denied. It appears to me that when the adjournment was sought on the ground of ill-health of the learned counsel appearing for the Company and it was not the case that the reason so cited was false, the Industrial Court must have considered the said request so that the matter is ultimately decided on merits.

4. In the above circumstances, the present writ petition can be disposed of by directing the Industrial court to give an opportunity to the petitioner company to advance the argument on its behalf. The next date in the proceeding before the Industrial court is 2nd April, 2019. It is submitted on behalf of the petitioner company that no adjournment will be sought on 2nd April, 2019 and necessary submissions would be made on behalf

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of the petitioner company on the said date. The learned counsel for the petitioner company and respondent No.1 – union are *ad-idem* on the issue that the issue of jurisdiction can also be simultaneously argued with the pending application. In the circumstances, following order is passed, -

ORDER

i. Order dated 18th December, 2018 is set aside.

ii. The learned Industrial court shall hear learned counsel appearing for the company and if so required, shall also give an opportunity to learned counsel appearing for Respondent No.1-Union to advance the arguments in rebuttal and shall decide the said application dated 24.9.2018, as expeditiously as possible and preferably within a period of two weeks after the arguments are concluded.

iii. It is expected that till the Industrial Court decides the application

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dated 24.9.2018, the petitioner company shall restrain itself from deducting the donations from non-members and shall not insist any of the employees to accept the Settlement dated 31.7.2018,

iv. It is further clarified that the issue of jurisdiction also can be agitated and the learned Industrial Court shall decide the same along with the application dated 24.9.2018.

v. The Writ Petition stands disposed of in the aforesaid terms.

(P.R. BORA)
JUDGE

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