

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

26 WRIT PETITION NO. 4416 OF 2019

DILIP PAPALAL JAISWAL
VERSUS
THE HONBLE MINISTER MINISTER OF STATE FOR
INDUSTRIES AND OTHERS

...
Advocate for Petitioner : Mr. H.V. Patil h/f Mr. Jaiswal Rupesh
A
AGP for Respondents : Mr. S.D. Ghayal
Advocate for Respondent No.2 : Mr. S.S. Dande
...

**CORAM : P.R. BORA, J.
DATED : 04th APRIL, 2019.**

PER COURT:-

. Heard Shri H.V. Patil holding for Advocate Shri Rupesh A. Jaiswal appearing for the petitioner in the matter and Shri Dande, the learned counsel appearing for respondent no.2.

2. The petitioner has filed the present petition challenging the order dated 29.03.2019 passed by respondent no.2. During the course of the arguments advanced by the learned counsel appearing for the parties, it is revealed that the petitioner has already filed a suit before the Civil Court and the same is pending. It is further revealed that injunction application was filed by the petitioner seeking similar reliefs during the pendency of the

suit as are prayed in the present petition and the said application was rejected however, the appeal filed against the said order is still pending before the District Court.

3. During the course of the arguments it is realised by the learned counsel for the petitioner that writ petition may not be an appropriate remedy for the petitioner. In the circumstances, the learned counsel, on instructions, sought leave to withdraw the present petition with liberty to file appropriate application before the First Appellate Court wherein, the miscellaneous appeal filed by the present petitioner is pending. The learned counsel, then prayed for a weeks protection, so as to enable the petitioner to approach the Civil Court for appropriate relief. The request so made is strongly opposed by Shri Dande, the learned counsel appearing for respondent no.2. The learned counsel pointed out that in fact the final order canceling the allotment has been communicated to the present petitioner vide letter dated 03.01.2019, and as such no further latitude can be shown.

4. After having considered the facts as aforesaid, it appears to me that the petitioner needs to be given an opportunity to agitate his grievance before the Court

wherein previous proceedings are pending. I am, therefore, inclined to pass the following order:

ORDER

- i) Leave granted. The writ petition stands dismissed since withdrawn with liberty as prayed for.
- ii) Respondent no.2 shall not execute the order dated 29.03.2019 for next one week.
- iii) Authenticated copy of this order is permitted.
- iv) It is clarified that this Court has not expressed any opinion on merit. The First Appellate Court shall decide the application on its own merits.

(P.R. BORA, J.)

Mujaheed//