

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8992 OF 2019

MADHAV SHANKAR KAWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri More Ashok A.
AGP for Respondent 1 : Shri Tiwari S.P.
Advocate for Respondents 2 & 3 : Shri Bagul D.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 24, 2019

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PER COURT :-

1. The petitioner, a Bus-Conductor with the Maharashtra State Road Transport Corporation is aggrieved by the interlocutory order passed by the Industrial Court, dated 29.11.2018, by which, application Exhibit U-2, seeking interim relief in Complaint (ULP) No.55 of 2016 has been rejected.

2. The State of Maharashtra is not a party to the proceeding before the Industrial Court and therefore, stands deleted from this petition. Learned AGP has caused an appearance and pointed out that the State is not a necessary party.

3. I have heard the strenuous submissions of Shri More, learned

Advocate appearing for the petitioner and I have perused the petition paper book with his assistance. Shri More has strenuously canvassed that this is a fit case for grant of interim relief. A major punishment of stoppage of one increments for three years has been imposed against the petitioner, which has a cumulative effect on his future salary emoluments. The balance of convenience is in his favour.

4. I find that the Industrial Court has considered the record available, while delivering the interlocutory order. The bus was travelling from Aurangabad to Ahmedabad. The charge sheet indicates that three passengers were travelling from Aurangabad to Dhule and had handed over Rs.1000/- to the petitioner. He issued them tickets from Aurangabad to Kannad. On noticing the checking squad at Chalisgaon, he issued them tickets from Kannad to Chalisgaon.

5. Notwithstanding the above, the law is well settled by the Honourable Apex Court in the past 50 years, which has been considered by this Court in Maharashtra State Roadways Transport Corporation Vs. Syed Saheblal Syed Nijam [2014 III CLR 547 = 2014 (4) Mah.L.J.687], that until the domestic enquiry is not dealt with by framing two issues, there cannot be any order of staying the punishment imposed. So also, even if the departmental enquiry is

vitiated, no interim relief can be granted as has been held by this Court in the case of M/S.Mumbai Cricket Association Vs. Pramod G. Shinde [2011 (5) Mh L J 36].

6. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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