

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4932 OF 2018

Thane Municipal Corporation and others ... Petitioners

Versus

Pratibha Indulkar and others ... Respondents

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Mr. Mandar Limaye a/w Ms Tanvi Kamat Deosthale for the
Petitioners.

Mr. Indrajeet Kulkarni for the Respondents.

.....

CORAM : M. S. KARNIK, J.

DATE : 27th MARCH, 2019.

P. C.:

1. Rule. Rule made returnable forthwith. Heard by consent of the learned counsel for the parties, finally.

2. By this petition under Article 227 of the Constitution of India, Thane Municipal Corporation is challenging the order dated 05/01/2017 passed by the Member, Industrial Court, Thane, thereby partly allowing the application below Exhibit U-2 in Complaint (ULP) No. 111 of 2016 filed by the respondent workmen. The impugned order reads thus:

“(A) *The application is partly allowed.*

“(B) *The respondents are directed not to terminate services of the complainants till final decision of the complaint.*

“(C) *Cost in cause.”*

3. Mr. Limaye, learned counsel for the Corporation assailing the order passed by the Industrial Court submitted that the protection as granted by the Tribunal should not have been ordered at the interim stage, for he would submit that if the respondents-workmen are to succeed in the main complaint, they would anyway be entitled to all benefits. He would submit that though the Corporation has nothing against the respondents-workmen, but the appointments have to be made in accordance with law. He would submit that a proposal has been forwarded by the petitioner-Corporation to the Government. According to him it is only when the Government sanctions the said proposal that the respondents would get a right to continue.

4. I have heard learned counsel for the parties. I am of the opinion that the Industrial Court has taken into consideration the proposal of the respondents for regular employment with the Corporation is pending with the Government. In this view of the matter, if the Industrial Court was of the opinion that during the pendency of the said complaint the services of the respondents-workmen need to be protected, no error can be said to have been committed by the Industrial Court to warrant interference. The complaint is of the year 2016.

In this view of the matter, I pass the following order.

O R D E R

- (i) The Industrial Court is requested to decide the main Complaint (ULP) No.111 of 2016 as expeditiously as possible and preferably within a period of one year from today.
- (ii) All contentions on merits are kept open and needless to mention that the Industrial Court, while deciding the main complaint will not be influenced by the observations made in the impugned order dated 05/01/2017 or those made by me.
- (iii) With these observations the writ petition is dismissed. Rule is discharged with no order as to costs.

(**M. S. KARNIK, J.**)