

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

WRIT PETITION NO.5490 OF 2019

M/s Marsh Enterprises	...	Petitioner
Versus		
Sagar Krishna Tembe		
And Others	...	Respondents

.....

Mr. Avinash Jalisatgi i/b Vaibhav Jagdale for the Petitioner.
Mr. Mayuresh D. Nagle for Respondent No.1.

.....

CORAM : S.C. GUPTE, J.

DATE : 18 DECEMBER 2019

P. C. :

. Heard learned Counsel for the parties.

2 Rule. Rule taken up forthwith for hearing by consent of parties.

3 This writ petition challenges an order passed by the Industrial Court at Thane on a review application made by the Petitioner herein (original Respondent No.1). By the impugned order, the Industrial Court refused to review the order purportedly on the ground that there was no error apparent on the face of the record, which called for review. The jurisdiction to review is not only on the basis of an

error apparent on the face of the record, there could be other grounds for making an application for review, such as discovery of a new or important piece of evidence, which was not either before the court or which could not be produced by the applicant for review, when the original order was passed. In the present case, the Petitioner's case is that the notice of the complaint was issued to Respondent No.2, for whom the Petitioner herein was providing labour on contract basis; Respondent No.1 herein, namely, the concerned workman, was an employee of the Petitioner. It was the case of the Petitioner that Respondent No.1 had tendered his resignation, which was not disclosed in the complaint. The resignation letter was produced by the Petitioner before the Industrial Court in its review application and on that basis, review was sought. These facts clearly constitute an adequate ground for seeking review of the original order passed by the Industrial Court. Accordingly, the impugned order of the Industrial Court dated 8 March 2018 is quashed and set aside and the complaint is remitted to the Industrial Court for a fresh consideration of the review application on merits.

3 In the meantime, for a limited period of one month from today, the criminal complaint filed by Respondent No.1 shall not be proceeded with. The criminal complaint is on the basis of the interim order passed by the Industrial Court in the original complaint of unfair labour practice. The case of the Petitioner herein is that he had no notice of the interim application. Therefore, the Petitioner herein seeks recall of that interim order and in the meantime, apply

for stay of the complaint. He is at liberty to do so. To enable him to do so, the present stay of 30 days has been ordered.

4 Rule is made absolute and the writ petition is disposed of accordingly.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

Digitally signed
by Rajesh V.
Chittewan
Date:
2020.01.10
17:14:20 +0530