

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5314 OF 2019**

M/s Divine Precision Components Pvt. Ltd. ..Petitioner.

V/s.

Nashik Workers Union ..Respondent.

Mr. Meelan Topkar for the petitioner.

None for the respondent.

CORAM: NITIN W.SAMBRE, J.

CLOSED FOR ORDER : JUNE 12, 2019.

PRONOUNCED ON: AUGUST 16, 2019.

P.C.:-

The petitioner, a Private Limited Company has questioned the order dated December 12, 2012 passed by the Labour Court, Nashik in complaint ULP No. 48 of 2012 whereby the interim relief came to be granted in favour of the respondents directing the petitioner to reinstate 24 workmen named in the list attached with complaint, with future regular wages. Feeling aggrieved, the

petitioner preferred revision application being Revision Application No. 52 of 2012 before the Industrial Court, Nashik. The Industrial Court, Nashik vide its impugned order dated March 16, 2019 dismissed the revision. As such, this petition.

2 It is the case of the petitioner that initially it was a Partnership Firm and was converted to Private Limited Company on February 3, 2009. According to petitioner, on August 7, 2012 the petitioners gave a notice of closure to the members of the respondent-Union on the grounds, (a) that the business of the company has gone down for want of work, (b) the directors are grown old and as such, are physically not in a position to manage affairs of the company, (c) the company is passing through tremendous financial hardship and as such, the company is left with no option but to stop the production. For the aforesaid reasons, the petitioner-company has taken decision to terminate the services of the members with effect from August 7, 2012 and were paid a month's advance salary and other benefits. It was assured to the employees that in case if the management decide to restart the

company, the members of the respondent will be given priority as per their seniority in re-employment.

3 Being aggrieved by the aforesaid notice of the retrenchment, the respondent-union filed the aforesaid complaint in which the interim relief is granted, as reflected herein-above.

4 The learned counsel for the petitioner made following submissions,

(a) The case of the petitioner-employer is that of the closure. A seniority list is already submitted with the Labour Officer;

(b) compliance of section 25-F of the Industrial Disputes Act, 1947 is very much taken recourse to;

(c) Assuming without admitting the case put forth by the petitioner of that of retrenchment the petitioners have paid compensation with one month's salary in compliance of section 25-F of the Industrial Disputes Act.

5 The submission of the petitioner is, by virtue of the interim orders, the relief of reinstatement is granted which amounts to grant final relief as similar relief is claiming in the complaint in

the form of final relief and that being so, the order impugned is liable to be quashed and set aside.

6 Considered the submissions.

7 Though the learned counsel for the petitioner has argued that it is a case of closure under the Industrial Disputes Act ('the Act' for short), however, upon perusal of the orders delivered by both the Courts below, petitioner claimed to have offered one month salary pursuant to Section 25F of the Act so as to retrench the services of the respondent-employee.

8 The Labour and Industrial Court while dealing with the claim of the petitioner, recorded a *prima facie* finding that services of the employees were terminated without notice or pay of one month as is required under the law. It can be inferred from the record that the workmen are in the employment of the petitioner for more than 240 days continuously. Apart from above, provisions of Section 25FFF of the Act is held to be not applicable, having regard to the number of employees working.

9 There is concurrent findings recorded against the

petitioner which are based on appreciation of the case of the petitioner based on legal provisions.

10 In the aforesaid background, no case for interference is made out. Petition fails, stands dismissed.

(NITIN W.SAMBRE, J.)