

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

WRIT PETITION NO.11156 OF 2019

Army Institute of Technology	...	Petitioner
Versus		
Shri Madan Domaji Naik		
And Others	...	Respondents

.....

Mr.Dhananjay J. Bhanage for the Petitioner.
Mr. A.S. Rao for Respondent Nos.1, 3 to 5.

.....

CORAM : S.C. GUPTE, J.

DATE : 18 DECEMBER 2019

P. C. :

. This writ petition challenges an order passed by the Industrial Court at Pune on a complaint of unfair labour practice. The complaint was on behalf of five employees. One of the complainants has since been deleted from the array of parties in the present petition. The controversy now concerns four employees of the Petitioner establishment. The complaint of these employees was under Items 5, 6, 9 and 10 of Schedule IV of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“Act”). The relief sought was a direction to extend the benefit of permanency after completion of 240 days from their initial appointments. When the matter is debated before this court, at the stage of admission, it

transpires that one of the main arguments of the Petitioner establishment is that the particular standing order concerning permanency of employment after completion of 240 days in a year, does not apply to the Petitioner, since it is not an industrial establishment as defined under the Industrial Employment (Standing Orders) Act 1946. It appears that this contention, which really goes to the root of the matter, was not considered by the Industrial Court whilst arriving at the impugned order. Accordingly, after the matter is heard at some length, it is agreed between learned counsel for the parties that the impugned order of the Industrial Court dated 20 June 2019 may be quashed and set aside and the complaint may be remitted to the Industrial Court for a fresh hearing in accordance with law and after considering the defence of the Petitioner herein (respondent to the complaint) as noted above.

2 The respondent before the Industrial Court may file appropriate pleadings in this behalf; the complainants may file their reply to such pleadings; and the Industrial Court may thereupon hear the parties and decide the complaint. Considering that the complaint is of the year 2013, the Industrial Court is requested to dispose of the complaint as expeditiously as possible and preferably within a period of six months from the date this order is pointed to the court. Either party may produce an authenticated copy of this order before the Industrial Court, whereupon a schedule of hearings may be fixed by that court.

3 In the meantime, the Petitioner herein shall desist from terminating services of the complainants otherwise than by due process of law.

4 It is made clear that the court, whilst hearing the complaint on remand, shall hear the rival cases of the parties based on both aspects, i.e. the relevant standing orders and Item 6 of Schedule IV of the Act.

5 The writ petition is disposed of accordingly.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

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