

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.607/2019

Divisional Traffic Superintendent, M.S.R.T.C., Akola Division, Akola and
another

..Vs..

Prakash Rajaram Nikhade

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.H. Kedar, Advocate for the petitioners.
Shri B.M. Khan, Advocate for the respondent.

CORAM : Z.A. HAQ, J.

DATED : 14.6.2019.

Heard.

A Circular issued by the petitioner Corporation on 18th November, 1991 prohibited its employees from contesting elections without resigning from service. The Maharashtra S.T. Chalak Vahak Yantriki Sanghatana - Union, alongwith two others had filed complaint ULP Case No.318/1992 before the Industrial Court and had challenged the circular. By order dated 30th August, 1992, the Industrial Court had stayed the effect and operation of the above referred circular.

This interim order dated 30th August, 1992 was challenged by the Corporation before this Court in Writ Petition No.3168/1993. By judgment dated 4th May 2007, learned Single Judge of this Court had allowed the petition and had set aside the interim order passed by the Industrial Court.

The respondent / employee contested the election on 5th September, 1999 without resigning from service. Treating this as breach of the circular dated 18th November 1991, disciplinary proceedings were initiated against the respondent / employee and charge-sheet was given to him on 24th January, 2000. After completing the enquiry, by order dated 29th June 2004, the respondent / employee came to be dismissed from service. The employee approached the Labour Court by filing complaint under Section 28 read with Section 7 and Item No.1 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. By order dated 23rd April 2014, the Labour Court allowed the complaint filed by the respondent / employee and directed the Corporation to reinstate him and pay back-wages. The order passed by the Labour Court was challenged by the Corporation before the Industrial Court in revision application which is dismissed by the impugned order.

In the meantime, similar issue had arisen in proceedings relating to some other employees and the issue came to be considered by Division Bench of this Court in L.P.A. No.142/2007 and other connected matters. While deciding the letter patent appeals, Division Bench of this Court recorded that the Corporation was not entitled to initiate departmental enquiry against its employees for breach of the circular after the circular was stayed by the Industrial Court on 30th August, 1992.

The issue which arises for consideration in the present matter is covered by the adjudication on the point by Division Bench of this Court in L.P.A. No.142/2007. In the present case, the respondent / employee contested the election when the circular was stayed, and departmental proceedings were also initiated when the circular was stayed. Hence, I find that the conclusions of the subordinate Courts are in consonance with the judgment passed by Division Bench of this Court in L.P.A. No.142/2007 and other connected matters. Hence, I see no reason to interfere with the impugned orders.

The writ petition is **dismissed** with costs quantified at Rs.20,000/- to be paid by the petitioners to the respondent. The petitioners shall pay the amount of costs of Rs.20,000/- to the respondent and produce receipt of it on record of this petition till 30th July, 2019. The amount of costs are saddled as the Corporation has filed petition before this Court and has incurred expenses on it, though the dispute is covered by judgment given by Division Bench of this Court in L.P.A. No.142/2007 and other connected matters.

JUDGE