

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

WRIT PETITION NO. 1064/2019

Zilla Krida Sankul Karmachaari Sanghatana
 ..VS..
 State of Maharashtra & ors.

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

Court's or Judge's orders

Shri A.J. Salway, Advocate for the petitioner
 Ms. K.R. Deshpande, AGP for the respondent/State
 Shri S.S. Ghate, Advocate for the respondent nos. 5 and 6

CORAM : Z.A.HAQ, J.
DATED : 21/06/2019

Heard.

The petitioner – Union has filed a complaint before the Industrial Court under Section 28 read with Items 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short “the Act of 1971”), contending that the respondent – employer is indulging in unfair labour practice by not extending the benefits of permanency on the members of the complainant – Union. In this complaint, the complainant – Union had filed an application (Exh. U/13) praying for interim relief. This application is dismissed by the Industrial Court on 03/01/2019 and being aggrieved by it, the petitioner – Union has filed this petition.

The respondent nos. 4, 5, 6, 7, 8, 11, 12, 13, 14, 19, 20, 27 and 28 have filed their submissions and have come out with a case that the services of those members of the complainant – Union for whom relief is sought by the complainant – Union are terminated by the orders issued in January and February, 2019. It is further submitted that the termination orders are not challenged till date.

The learned advocate for the petitioner - Union has not disputed the fact that the termination orders are issued in January and February, 2019. The petitioner – Union is not disputing that the termination orders are not challenged before any forum till date.

In these facts, in my view, interim relief as prayed for by the petitioner – Union cannot be granted.

The advocate for the petitioner – Union relied on the provisions of Section 30 (2) of the Act of 1971 and argued that while examining as to whether the complainant is entitled for interim relief or not, the Court can pass any interim order including a restraint order and direct the employer to withdraw temporarily the unfair practice complained of, which is an issue in the proceedings before the Court. There cannot be any dispute regarding the wide powers which can be exercised by the Court while considering the question of grant of interim relief under Section 30 (2) of the Act of 1971. However, unless the termination orders are challenged before the Court, it would not be possible for the Court to consider and grant the prayer for interim order.

In view of the above, I see no reason to show indulgence in the matter.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE