

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

Writ Petition No. 789 of 2018

Shanmugharajan S. and others
Vs.
Chandrakala Sahadeo Sudhokar

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

Court's or Judge's orders

Mr. A.H. Daga, Advocate for Petitioners
Mr. P. N. Verma, Advocate for Respondent

CORAM : MANISH PITALE, J.

DATED : APRIL 22, 2019

By this writ petition, petitioners have challenged the order dated 11/01/2018, passed by the Industrial Court, whereby the Industrial Court has rejected the application at Exh.C-2 filed by the petitioners seeking interim stay of the order passed by the Labour Court issuing process against the petitioners.

2. The backdrop of the said impugned order was that on 02/07/2015, the Labour Court, Buldhana had allowed the complaint filed by the respondent and directed the petitioners to desist from indulging in unfair labour practices and further reliefs were granted in favour of the respondent, setting aside the order of dismissal from the service dt. 21/09/2011 with directions to the petitioners to reinstate the respondent

along with continuity of the service and full back wages.

3. The said Judgment and the order of the Labour Court was made subject matter of the challenge by the petitioners by filing revision application No. 61/2017 before the Industrial Court. Along with the said revision application for stay at Exh. 2 was also filed.

4. During pendency of the same, on a complaint filed by respondent U/s. 48 of the MRTU & PULP Act, 1971, by the order dated 14/12/2017, the Labour Court issued process against the petitioners for offence punishable Under Section 48(1) of the aforesaid Act. It is against the said order that the petitioners filed revision application before the Industrial Court in which the impugned order dated 11/01/2018 has been passed rejecting the application filed on behalf of the petitioners seeking stay of the order of issuance of process.

5. While issuing notice on 09/02/2018, this Court granted ad-interim stay of the effect and operation of the Judgment and order dated 02/07/2015, passed by the Labour Court in the complaint ULP No. 3/2014. As a consequence, the entire proceedings have come to standstill.

6. It has come on record that even today the application for stay at Exh.2 filed by the petitioners in revision application No. 61/2017 before the Industrial Court, challenging the aforesaid judgment and order dated 02/07/2015 of the Labour Court, Buldhana, is pending and no orders have been passed on the same. The order of issuance of process by the Labour Court is consequential to the Judgment and order dt. 02/07/2015, passed by the Labour Court and its non-compliance by the petitioners. It would be only in the fitness of the things that a direction is given to the Industrial Court to take up the Revision application bearing Revision Application No. 61/2015 so as to put to rest the controversy. In absence of such consideration and decision, any orders on the correctness or otherwise of issuance of process by the Labour Court will be futile. But, since this Court granted stay of the original of the judgment and order of the Labour Court dated 02/07/2015, everything has come to standstill and petitioners are enjoying interim relief while the respondent has not been able to enjoy the fruits of the aforesaid judgment and order passed by the Labour Court in her favour. In this situation, this Court is of the opinion that it would be in the interest of justice that the present writ petition is disposed of with specific direction to the Industrial Court where the revision application No.61/2017 is pending. Accordingly, the Industrial Court is directed to take up the revision application No. 61/2017 itself

for immediate consideration and disposal so that the merits of the contentions of the rival parties are considered and appropriate decision is taken in the matter. The Industrial Court at Akola shall, therefore, take up the revision application No. 61/2017 for consideration immediately and dispose of the same within a period of three months from today. It is further recorded that till the revision application No. 61/2017 is heard and disposed of by the Industrial Court, Akola within the aforesaid period of three months, respondent will not press the complaint bearing ULPA No. 7/2017.

7. Writ petition is disposed of in above terms.

JUDGE

MP Deshpande