

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6827/2018

(MAHARASHTRA STATE CO-OPERATIVE COTTON GROWERS MARKETING FEDERATION LTD.,
 NAGPUR **VERSUS** MAHARASHTRA STATE CO-OPERATIVE COTTON GROWERS MARKETING
 FEDERATION Employees, Nagpur & OTHERS)

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

Court's or Judge's orders

Shri A.A. Sambaray with Shri R.S. Subhedar, counsel for petitioner.
 Shri P.A. Kadu, counsel for R-1.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 19, 2019.

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard.

The challenge raised in the present writ petition is to the order passed below Exhibit 139 which was an application filed by the petitioner-Federation herein seeking a direction that the respondent no.1-Union be directed to deposit the entire amount that was received by its members after accepting benefits of the Voluntary Retirement Scheme.

The respondent no.1 had initially filed a complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'the said Act') which came to be partly allowed. To seek recovery of the amounts adjudicated therein, the Union filed proceedings under Section 50 of the said Act. In those proceeding, the Union sought to amend its pleadings which application was allowed by the Industrial Court. The Federation challenged that order but said challenge was not accepted and liberty was granted to the Federation to amend its pleadings. After the pleadings were so amended, the Federation filed another application below Exhibit 139 seeking a direction that since about 1947 members of the Union had accepted the Voluntary

Retirement Scheme and had received the benefits thereunder, they were precluded from claiming any further amounts. Hence, the question of seeking any recovery under Section 50 of the said Act would not arise. A prayer was therefore made to direct the members of the Union to deposit the amounts received by them under the said Scheme. By the impugned order, the said application has been rejected on the ground that the Court would have to consider those aspects finally in proceedings under Section 50 of the said Act.

Heard the learned counsel for the parties. It is seen that the considerations required for adjudication of application below Exhibit 139 would be similar to the consideration for deciding the application under Section 50 of the said Act finally. The pleadings of the parties are now complete and it would be in the fitness of things to direct final adjudication of the proceedings under Section 50 of the said Act. This would enable final adjudication on merits of the claim. It would be open for the petitioner to substantiate its defence that no amount is liable to be paid by it in view of acceptance of the benefits under the Voluntary Retirement Scheme by 1947 employees. In that view of the matter, I am not inclined to interfere with the impugned order at this stage.

Keeping all contentions of the parties open for being raised in the proceedings under Section 50 of the said Act, the writ petition stands disposed of. The Industrial Court shall take necessary steps to decide the proceedings finally within a period of two months from today. In the facts of the case, there would be no order as to costs.

JUDGE