

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

WRIT PETITION NO. 1706 OF 2020

Dharmrajya Kamgar Karmachari Mahasangh ...Petitioner

vs.

M/s.Repro India Ltd. & Ors. ...Respondents

Ms.Jane Cox with Karishma Rao for Petitioner.

Mr.Shafi Kazi with Jinal Bhanushali i/b. BJ Law Officers LLP for
Respondent.

CORAM : S.C. GUPTE, J.

DATE : 25 FEBRUARY 2020

P.C. :

This writ petition challenges an order passed by Industrial Tribunal in an appeal filed under Section 25-O of the Industrial Disputes Act, 1947 as the same is purportedly applicable in Maharashtra. By the impugned order, the Industrial Court held the appeal of Respondent No.1 herein to be maintainable. The Respondent's appeal was under the provisions of Sub-section (4) of Section 25-O as amended by the Maharashtra Amendment Act. It was the case of the Petitioner union before the Industrial Tribunal that the appeal was not maintainable, since it was under Section 25-O as contained in the Central Government Act, which was applicable to the facts of the case and not Section 25-O as per the Maharashtra Amendment. The argument of the Petitioner union was rejected by the Industrial Court and the appeal was held to be maintainable. It appears that simultaneously, the Respondent employer had also applied for review of the impugned order of the appropriate Government refusing to grant permission under Section 25-O of the Act as

contained in the Central Enactment. No decision was, however, taken by the appropriate Government on the application for review. Neither did the appropriate Government review its order refusing to grant permission nor did it refer the matter to a Tribunal for adjudication.

2 This petition, in the premises, raises several debatable questions concerning the repugnance of the Central Act with the Maharashtra Amendment. Considering, however, that the impugned order refusing to grant permission had a life of only one year, the review has now become infructuous. The Respondent employer is, however, entitled to apply for closure once again, since the original order has come to an end.

3 On these facts, learned Counsel for the Respondent submits that he may be permitted to apply to the appropriate Government with a fresh application for closure under Sub-section (2) of Section 25-O and that the Government may be ordered to decide such application expeditiously. Learned Counsel submits that all rights and contentions of the parties on merits including the constitutional issues involved in the present petition be left open. Learned Counsel for the Petitioner union has no objection to this course being followed.

4 The writ petition is, accordingly, disposed of by quashing and setting aside the impugned order passed by the Industrial Tribunal in the pending appeal. The appeal itself may be treated as withdrawn. The Respondent employer shall be at liberty to apply to the appropriate Government for permission of closure under Sub-section (2) of Section 25-O of the Industrial Disputes Act, 1947. As and when such application is made, the same shall be decided within 60 days from the date of the

application. All rights and contentions of the parties on any such application as well as on the constitutional issues involved in the present petition concerning repugnance of the State Act with Central Legislation, are kept open.

(S.C. GUPTE, J.)

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