

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

WRIT PETITION NO. 1678 OF 2020

Sagar Chavan	 Petitioner.
vs	
Navabharat Press Ltd & Anr.	 Respondents.

.....

Jane Cox a/w Karishma Rao for the Petitioner.
Santosh Shetty for the Respondents.

.....

CORAM : S.C. GUPTA, J.

DATED: FEBRUARY 20, 2020

P.C. :

This Writ Petition challenges an interim order passed by the Industrial Court at Thane under Section 30(2) of the MRTU and PULP Act, 1971 in a complaint filed by the Petitioner herein.

2. The case of the Complainant was that he was in the employment of the Respondent-Navbharat Press Limited as Assistant Printer. It was submitted that he was participating in union activities and was in fact a leading activist and Executive Committee member of the employees' union. The union was involved in a dispute concerning implementation of Majithia Award in the Respondent-company, which dispute resulted into a reference. It was submitted that as a result of his participation in union activities and in particular in connection with the reference, the Respondent-

company victimized the Petitioner and transferred him to Nagpur. It was submitted that the Respondent-company had no establishment at Nagpur. The Petitioner, accordingly, challenged his transfer before the Industrial Court in a complaint of unfair labour practice. He took out an interim application in the complaint seeking to stay his transfer. The interim application was rejected by the Industrial Court and the parties were directed to co-operate with each other for expeditious decision of the complaint itself. This order is the subject matter of challenge in the present petition.

3. The Industrial Court, whilst passing its impugned order, has considered that though there were indications in its written statement in the reference that the Respondent-company printed and published Navabharat Times Mumbai edition, Pune edition and Nashik editions, it did not have any establishment in Nagpur; the Nagpur edition of Navabharat Times was printed by Navabharat Press, Nagpur, which was a partnership firm registered under the Indian Partnership Act, 1932, the stand taken by the Respondent-establishment in the present complaint clearly implied that it not only had an establishment in Mumbai but even at Nagpur, Raipur and Bilaspur. These addresses were shown even on the letter-head of the Respondent. The Court also noted that the letter of appointment issued to the Petitioner, which was on this letter-head, also gave Nagpur as one of the places of the establishment, and made the services transferable at any place (meaning thereby, the

possibility of a transfer at Nagpur). This material, according to the Industrial Court, *prima facie* showed that the Respondent-company had an establishment at Nagpur, to which the complainant-employee could be transferred.

4. No fault can be found with this assessment of the Industrial Court. It is, after all, a *prima facie* assessment, and is supported by some material on record; it cannot be said that it is either based on no evidence or is an impossible or unreasonable view; it does take into account all germane and relevant materials and circumstances; and it does not consider any irrelevant or non-germane material or circumstance.

5. So far as the purported contradictions between the Respondent's stand before the reference court and the Industrial Court in the present complaint are concerned, the Industrial Court has rightly noted that though the Respondent could not possibly justify why two different stands were taken in the reference court and before the Industrial Court in the present complaint, that itself would not justify the submission of the complainant that the Respondent had no establishment at Nagpur where he could be transferred. The Court noted that at the most, the contention made by the Respondent-company in its written statement could be used by the employees in the pending reference before the Labour Court; it, however, did not *prima facie* justify the conclusion that the Respondent had no establishment at Nagpur.

6. Learned Counsel for the Petitioner submits that there is a clear case of estoppel here, since the Respondent had already taken a stand, as a prior contention, before the reference court that the establishment of Nagpur was different from the establishment at Mumbai where the Petitioner worked. If there are contradictory stands, the Court would take a view on these stands and accept or reject any particular stand at the final hearing of the complaint as also at the hearing of the reference. At this *prima facie* stage, this itself was not sufficient for the Court to come to a conclusion one way or the other and, at any rate, as noted above, there can be no perversity ascribed to the view taken by the Industrial Court in the present case.

7. Accordingly, there is no merit in this petition. The Writ Petition is, in the premises, dismissed.

(S.C. GUPTE, J.)