

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.6207 OF 2018**

M/s. Modi Rubber Ltd. And Ors.

...Petitioners

vs

Mr. Vispu H. Behram And Ors.

...Respondents

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Mr. K.S. Bapat, a/w. Mr. Jayesh Desai, i/b. M/s. Desai & Desai Associates, for the Petitioners.

Mr. Yogendra Pendse, a/w. Mr. Onkar V. Warange, for Respondent Nos. 1, 2 and 4.

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CORAM : S.C. GUPTE, J.**DATED: 3 MARCH, 2020****P.C. :**

. This writ petition challenges an order passed by the Industrial Court at Mumbai on a complaint of unfair labour practice filed by the Respondents herein. The Respondents, who were working as employees of the Petitioners, were transferred from Mumbai to Modipuram. This transfer was challenged by the complainant employees *inter alia* under item 3 of Schedule IV of the MRTU & PULP Act, 1971. By its impugned order, the Industrial Court has allowed the complaint and set aside the transfer order passed by the Petitioners herein. Considering that the Industrial Court, whilst passing the impugned order, does not appear to have applied its mind to the requirement of item 3, namely, whether the transfer was malafide under the guise of following management policy, learned Counsel for the parties agree that the impugned order may be set aside and the

complaint may be remitted to the Industrial Court for a fresh hearing in accordance with law.

2. Accordingly, the impugned order dated 5 January 2016 by the Industrial Court at Mumbai is quashed and set aside and Complaint (ULP) No.207 of 2008 is remitted to the Industrial Court for a fresh hearing in accordance with law and having regard to the observations made by this Court above. All contentions of the parties on merits are kept open.

(S.C. GUPTE, J.)

Smita
Gonsalves

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Smita Gonsalves
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