

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

WRIT PETITION NO.12034 OF 2019

Vishnudas Shankar Mundhe	...	Petitioner
Versus		
Maharashtra State Road Transport Corporation		
And Another	...	Respondents

.....

Mr. Umesh H. Pawar for the Petitioner.
Mr. Amit Ashok Gharte for the Respondents.

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CORAM : S.C. GUPTE, J.

DATE : 27 FEBRUARY 2020

P.C. :

. Heard learned Counsel for the parties.

2 This writ petition challenges an order passed by the Labour Court at Sangli on an application made to it under Section 30(2) of Maharashtra Recognition of Trade and Prevention of Unfair Labour Practices Act, 1971. The application was in a complaint of unfair labour practice made by the Petitioner herein under Section 28 (1) read with Items 1(a), (b), (d), (e), (f) and (g) of Schedule IV of that Act. This order has since been confirmed by the Industrial Court at Sangli in revision. It is the grievance of the Petitioner that the

impugned orders proceed on the footing that the complainant employee, who was working as a conductor with the Respondent corporation, was apprehended in a spot inspection, when he was found to have issued tickets of lesser value to the passengers. The order proceed on the footing that there was no explanation on his part for his fault of not issuing proper tickets. The Labour Court, in its impugned order, has particularly noted that it was not case of the complainant that there was any oversight or other reason why proper tickets were not issued to the concerned passengers. These observations fly in the face of a categorical stand taken by the complainant in his defence, which finds reflected in the disciplinary enquiry conducted against him, that the lapse was caused by reason of a confusion. The complainant has explained in his cross examination why and how this confusion came about. There is no reference to this aspect of the matter in the impugned order. On the other hand, there is an observation about want of any explanation on the part of the complainant. The impugned orders, accordingly, may *prima facie* merit interference. Considering, however, that the matter is at the stage of a show cause notice for disciplinary action, it would be in the interest of justice to allow the Respondent corporation to go ahead with consideration of the delinquent employee's explanation and disciplinary action, if any, based on such consideration. It would, however, be in the interest of justice to protect the service of the delinquent employee pending such consideration and for some limited period of time in case any disciplinary action is ordered against him after considering his explanation. It will not be proper in

the facts of the case to grant an injunction, as claimed by the Petitioner restraining the corporation from taking steps in pursuance of the show cause notice, which will have effect of postponing the consideration of disciplinary action itself by an indefinite length of time. Accordingly, the Petition is disposed of by requiring the Respondent corporation not to act on the disciplinary action, if any, ordered against the Petitioner after considering his response to the show cause notice, for a period of three weeks after passing of such order on the show cause notice. The Petitioner is, accordingly, permitted to submit his response to the show cause notice within a period of two weeks from today. Thereafter, the disciplinary authority of the Respondent may decide whether or not to take any disciplinary action. In case the authority orders a disciplinary action against the Petitioner, the same shall not be implemented for a period of three weeks from the date of communication of that order to the Petitioner. All rights and contentions of the parties on merits are kept open. It is made clear that the observations made in this order are for the purposes of deciding the present writ petition. The disciplinary authority of the Respondent corporation shall decide the matter of show cause notice and the Petitioner's explanation on their own merits and without being influenced by the observations made in this order. The petition is disposed of accordingly.

(S.C. GUPTE, J.)

Rajesh V. Chittewan

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