

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No. 7584 of 2019
Maharashtra Ex-Servicemen Corporation Ltd. & Anr.
Vs.
Ramchandra Chawade

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

Court's or Judge's orders

Ms. Neerja G. Chaubey, Advocate for the petitioners
Mr. V.V. Dhande, Advocate for the respondent

CORAM : MANISH PITALE, J.

DATED : FEBRUARY 21, 2020

By this writ petition, the petitioner Maharashtra Ex-Servicemen Corporation Ltd. has challenged order dated 11/10/2019, passed by the First Labour Court, Nagpur in Reference IDA No.50/2017, whereby an application filed by the petitioners herein seeking dismissal of the Reference has been rejected. The petitioners had filed the application in the said Reference proceedings, contending that the appropriate Government in the present case would be the Central Government because according to the petitioners the Corporation is a Central Government undertaking. It was claimed that, therefore, the Reference proceedings were required to be dismissed at the threshold. It was opposed by the respondent herein.

2. In the impugned judgment and order, the Court below has considered the contentions raised on behalf of the petitioners and it has found that the documents on the basis of which the petitioners have made their claim need to be proved upon the parties being granted an opportunity to lead evidence on the issues sought to be raised by the petitioners. In absence of such exercise, it would not be appropriate to allow the application of the petitioners and to dismiss the Reference proceedings at that stage.

3. After this Court issued notice and granted interim relief in favour of the petitioners, the respondent has entered appearance and in submissions filed before this Court, it is pointed out that the Court below has already framed an additional preliminary issue on the question as to whether the Court below has jurisdiction to try the Reference. It is asserted on behalf of the respondent that the said question is a mixed of question of law and facts and, therefore, the same could be decided only after evidence is led by the parties on the question of jurisdiction.

4. In view of the fact that the Court below has already framed a preliminary issue regarding jurisdiction, it would be appropriate that a direction is given to decide the said preliminary issue first before the Court below enters into the merits of the dispute between the parties.

5. Looked at from this angle, it cannot be said that the Court below has committed any error while passing the impugned order. The petitioners have not been foreclosed from raising the said issue and since specific preliminary issue is already framed, this Court is not inclined to exercise writ jurisdiction in the present writ petition.

6. Accordingly, the writ petition is dismissed. But, it is made clear that the Court below shall first decide preliminary issue – A-1, as framed on the question of jurisdiction before proceeding to decide the merits of the matter. The Court below shall give proper opportunity to rival parties to lead evidence on the aforesaid preliminary issue before deciding the same. The Court below shall decide the said preliminary issue within a period of six weeks from today.

7. The writ petition is disposed of.

8. Writ Petition No.7619/2019 and Writ Petition No.7626/2019, are detagged, to be listed separately after two weeks.

JUDGE