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

WRIT PETITION NO. 1173 OF 2021

Jagdish Kisan Bale

....Petitioner

Vs.

The Thane Bharat Sahakari Bank Ltd. and anr. Respondents

Mr.Yogendra Pendse i/b Mr.Mahendra Agavekar, for the Petitioner.
Ms.Vrushali Nimbalkar, AGP for the Respondent - State.
Mr.Rahul Oak a/w Mr.M.V. Joglekar, for Respondents.

CORAM : M. S.KARNIK, J.

DATE : 22nd JULY, 2021

P.C. :

1. Heard learned Counsel for the Petitioner. It is the Petitioner's case that charge-sheet came to be issued against him by Respondent - Bank for alleged misconduct. An enquiry was held in a cryptic manner. The Respondent - Bank proposed punishment of removal from services of the Petitioner - employee. The Petitioner approached the Labour Court by filing a complaint of unfair labour practice under the Provisions of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971. By the interim order, the services of the Petitioner were protected.

2. During the pendency of the proceedings before the

Labour Court, the Respondent - management decided to issue a fresh charge-sheet and hold a fresh enquiry.

3. As second enquiry was initiated, which according to the Petitioner was impermissible as the issue was already pending before the Labour Court, a complaint of unfair labour practice came to be filed before the Industrial Court challenging the legality, propriety and validity of the fresh enquiry. The Industrial Court refused to interfere with the fresh enquiry.

4. It is the contention of the learned Counsel for the Petitioner that once the matter is subjudiced before the Labour Court, it was not permissible for the employer to initiate a fresh enquiry on the same set of charges and instead it was open for the Respondent - Bank to lead evidence before the Labour Court in the pending complaint to prove that enquiry conducted is fair, legal and proper.

5. I have gone through the impugned order passed by the learned Member, Industrial Court. I see no reason to interfere with the said order. Learned Counsel for Respondent - Bank makes a categorical statement that the charge-sheet

issued which was the subject matter of challenge before the Labour Court and proposed punishment orders stand withdrawn. The challenge before the Labour Court to the first enquiry was on the ground that the enquiry was conducted in a cryptic manner without giving proper opportunity to the Petitioner to defend the charges.

6. It is again clarified by learned Counsel appearing on behalf of the Respondent - Bank on instructions that the earlier charge-sheet stands withdrawn and even the consequential proposed punishment which is the subject matter of the challenge before the Labour Court stands withdrawn. As to what is the effect of this withdrawal on the fresh enquiry is a contention which can be agitated at the appropriate stage and this question can be kept open.

7. In this view of the matter, as the Respondent - Bank has taken a decision to withdraw the charge-sheet and proposed punishment and hold a fresh enquiry, I see no reason to interfere with the order passed by the Industrial Court as the same cannot be said to be perverse, consequently, the Petition stands rejected.

(M.S.KARNIK, J.)