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

WRIT PETITION NO.3046 OF 2020

1. Jadhao Gears Limited,
D-9/2, 10 and 11, M.I.D.C. Area,
Amravati, Tahsil and District :
Amravati, through its Chief
Executive Officer.

2. Jadhao Gears Limited,
D-9/2, 10 and 11, M.I.D.C. Area,
Amravati, Tahsil and District :
Amravati, through its Managing Director. **Petitioners.**

:: VERSUS ::

Shri Rajkumar s/o Sahebrao
Shete, Aged about 46 years,
Occupation : service, resident of
Kiran Nagar, Amravati, Tahsil and
District : Amravati. **Respondent.**

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Shri S.S.Ghate, Counsel for Petitioners.
Shri R.D.Wakode, Counsel for the Respondent.

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CORAM : **V.M.DESHPANDE, J.**
DATE : **JANUARY 15, 2021**

ORAL JUDGMENT

1. Heard learned counsel Shri S.S.Ghate for petitioners
and learned counsel Shri R.D.Wakode for the respondent. **Rule.**

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Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. Petitioners take exception to order dated 7.11.2020 passed below **Exhibit U-2** by learned Incharge Member, Industrial Court, Amravati in Complaint (ULP) No.59/2020. By the impugned order, learned Member of the Tribunal temporarily stayed transfer order dated 9.1.2020 issued by petitioners against the respondent transferring him from Amravati to Mulund (West) Mumbai.

3. Petitioners are employers with whom initially the respondent took employment as 'Turner' and now he is 'Senior Supervisor' and was discharging his duties at Amravati.

4. After the respondent was transferred, he made a representation with petitioners on 31.1.2020 and requested that the transfer order be kept in abeyance in view of education of his son. According to learned counsel for petitioners, the said was accepted. The respondent on 1.7.2020 gave another

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representation to his employer (petitioners) pointing out therein that due to pandemic situation railways are not running and it was informed that railways may resume on 12.8.2020. Therefore, he submitted that if railway travel is permitted and if accommodation is provided at Mumbai, he will join services at Mumbai. The said representation was also considered favourably.

5. According to petitioners, on 11.8.2020 petitioners gave a communication pointing out therein to the respondent that as per his request his transfer is stayed, till 12.8.2020. By the communication, it is also made known to the respondent that his request letter dated 23.7.2020 is turned down and he was directed to join at transferred place at Mumbai from 13.8.2020, else he will be responsible for consequences.

6. Petitioners, thereafter, approached to learned Member, Industrial Court at Amravati by filing a complaint under Section 28 read with Item Nos.3, 5, and 9 of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The complaint was registered as Complaint

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(ULP) No.59/2020. Along with the said complaint, the respondent also filed an application for *interim* relief. The said application is at **Exhibit U-2**. Petitioners appeared in the said case and also filed a reply to the application for *interim* relief. After hearing parties, learned Member of the Tribunal passed a detailed order on 7.11.2020. Operative portion of the said order is reproduced herein below:

“1. The application below Ex.U-2 in the Complaint U.L.P. No.-59/2020 is hereby allowed.

2. The impugned Transfer Order dated 09-01-2020 issued by the respondents is Temporarily Stayed, and the Respondents are directed to allow the Complainant to work at Amravati, during pendency of this Complaint.

3. No Order as to costs.”

7. Against the aforesaid order, the present writ petition is filed.

8. Submission of learned counsel Shri S.S.Ghate for the petitioner, that final relief is granted in the guise of grant of

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temporary relief, is not correct inasmuch as learned Member of the Tribunal has not set aside the order of transfer but he only temporarily stayed the transfer order.

9. It is informed to this Court that in view of order dated 7.11.2020, petitioners have permitted the respondent to discharge his duties at Amravati. The main complaint is still pending. Any observations on merits or demerits of order may cause prejudice to the employer as well as to the respondent.

10. In this view of the matter, I pass following order:

ORDER

(1) The writ petition is disposed of maintaining order dated 7.11.2020 passed below **Exhibit U-2** by learned Incharge Member, Industrial Court, Amravati in Complaint (ULP) No.59/2020 that transfer order dated 9.1.2020 issued by petitioners shall remain temporarily stayed.

(2) Parties are directed to appear before learned Member, Industrial Court at Amravati on 28.1.2021 and from the said date

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within a period of three months learned Member of the Tribunal shall decide the complaint in accordance with law.

(3) It is expected that parties to the complaint shall extend full cooperation to learned Member of the Tribunal for disposing of the matter within the time limit.

(4) It is made clear that learned Member of the Tribunal shall dispose of and decide the complaint in accordance with law and without getting himself influenced by any of observations made by him in order dated 7.11.2020.

The writ petition is disposed of. The Rule is made accordingly.

JUDGE

!! BRW !!

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