

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1115 OF 2022

Amit Balraj] ... Petitioner

Vs.

Mumbai Educational Trust & Ors.] ... Respondents

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Mr. Bhavesh Parmar with Mr. Devmani Shukla, Mr. Rajesh Sahani
and Ms. Reshma Nair for the petitioner.

Mr. S.C. Naidu with Mr. Manoj Gujjar and Divya i/b C.R. Naidu
& Co. for the respondents.

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 08TH FEBRUARY, 2022.

P.C. :-

1. This matter was heard for some time and, with the assistance
of the learned advocates, I have gone through the record available
and the findings of the Industrial Court on Issue No.3, which reads
as under:

Issue No.3	Does the Complainant falls within the definition of “workman’ under Section 2(s) of the Industrial Disputes Act, 1947?	No.
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2. Shri Naidu submits that, the petitioner has been placed under suspension by the employer pending disciplinary action. As the petitioner approached the Industrial Court on 15/02/2016, the order of suspension dated 13/07/2015 was continued and no further disciplinary proceedings were initiated, only because of the pendency of the complaint.

3. The learned advocate for the petitioner sought a pass over to take instructions. After lunch, when the matter was called out, the learned advocate submits, on instructions, from the petitioner that he would not question the conclusions of the Industrial Court to the extent of the answer to Issue No.3 that the petitioner is not a workman. However, he submits that, after the Industrial Court concluded that the petitioner is not a workman and the ULP complaint was untenable, the Industrial Court should have disposed off the complaint. Instead, the Industrial Court went into other issues and also rendered findings on the same, which are likely to cause prejudice to the petitioner. He, therefore, submits, on instructions, that the petitioner desires to withdraw this petition, but the findings on the other issues in the impugned judgment would create an embargo on the rights of the petitioner.

4. I find that the submissions of the learned advocate for the

petitioner are well placed that when the Industrial Court concluded that the complaint itself was untenable as the status of the petitioner was not that of a workman, the Industrial Court should have simply disposed off the complaint as being untenable.

5. In view of the above, this petition is disposed off as withdrawn.

6. The impugned judgment of the Industrial Court would apply to the petitioner only to the extent of Issue No.3, reproduced above. The employer-respondent is at liberty to proceed with the disciplinary action, as is permissible in accordance with law, by keeping all legal rights of both the parties open.

7. In the event the petitioner avails of a legally permissible remedy, the conclusions of the Industrial Court set out in the impugned judgment, save and except the findings on Issue No.3, would not create any embargo on his rights and the court/authority dealing with his grievance would not be influenced by the said conclusions.

[RAVINDRA V. GHUGE, J.]