

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

WRIT PETITION NO.7482 OF 2022

**PRIYA
RAJESH
SOPARKAR**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Kondhalkar Jalindar S. ... Respondent

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PRIYA RAJESH
SOPARKAR
Date: 2022.07.02
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**WITH
WRIT PETITION NO.7484 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Gaikwad Vinoba M. ... Respondent

**WITH
WRIT PETITION NO.7485 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Kamble Sunil M. ... Respondent

**WITH
WRIT PETITION NO.7486 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Kothavale Jeevan B. ... Respondent

**WITH
WRIT PETITION NO.7487 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Kamble Suresh H. ... Respondent

**WITH
WRIT PETITION NO.7488 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Bangar Dattatraya R. ... Respondent

**WITH
WRIT PETITION NO.7489 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Pawar Nitin U. ... Respondent

**WITH
WRIT PETITION NO.7490 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Chavan Sanjay H. ... Respondent

**WITH
WRIT PETITION NO.7491 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Dhamal Tanajii Y. ... Respondent

**WITH
WRIT PETITION NO.7492 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Sonawane Krushna A. ... Respondent

**WITH
WRIT PETITION NO.7493 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.
Bhutekar Nilkanth C. ... Respondent

**WITH
WRIT PETITION NO.7495 OF 2022**

Godrej and Boyce Mfg. Co. Ltd. ... Petitioner
V/s.

Bhosale Navnath K.

... Respondent

**WITH
WRIT PETITION NO.7496 OF 2022**

Godrej and Boyce Mfg. Co. Ltd.

... Petitioner

V/s.

Gadhawe Vikas K.

... Respondent

**WITH
WRIT PETITION NO.7497 OF 2022**

Godrej and Boyce Mfg. Co. Ltd.

... Petitioner

V/s.

Dagade Sanjay G.

... Respondent

**WITH
WRIT PETITION NO.7622 OF 2022**

Godrej and Boyce Mfg. Co. Ltd.

... Petitioner

V/s.

Vijay Ashru Shinde

... Respondent

**WITH
WRIT PETITION NO.7625 OF 2022**

Godrej and Boyce Mfg. Co. Ltd.

... Petitioner

V/s.

Malusare Ankush D.

... Respondent

**AND
WRIT PETITION NO.7826 OF 2022**

Godrej and Boyce Mfg. Co. Ltd.

... Petitioner

V/s.

Gaikwad Ashok B.

... Respondent

Mr.J.P.Cama, Senior Advocate alongwith Mr.Varun Joshi i/by Mr. Chetan Alai, Advocates for the Petitioner.

Mr.Vijay Vaidya alongwith Mr.Mahendra Agavekar and Ms.Shraddha Chavan, Advocates for the Respondents.

CORAM : NITIN W. SAMBRE, J.
DATE : JUNE 29, 2022.

P.C. :-

1. Writ Petition No.7826 of 2022 is not on board. Mentioned. Taken on board by consent.

2. Heard.

3. In all these bunch of petitions since the issue involved is the same and the orders impugned are similar, by consent are tagged and heard altogether finally. For convenience, the facts in Writ Petition No.7492 of 2022 are taken into consideration. Impugned in the petition is order dated 27th April, 2022 passed by Labour Court, Satara.

4. The services of the respondent-employee were terminated on 20th November, 2020, which has given rise to the parties submitting statement of claim before the Labour Commissioner. As there was a conciliation failure, matter was referred to the Labour Court vide order of reference dated October, 2021.

5. The said proceedings were registered as Reference (IDA) No.13 of 2021 in which the respondent-employee has taken an application Ex.U-4 seeking directions to the petitioner-employer to

allow the respondent-employee to work temporarily till final disposal of matter. Such prayer inspite of resistance by the petitioner-employer came to be allowed vide order dated 22nd April, 2022. While questioning the legality of the order, he would urge that in case if the reference is answered in favour of the petitioner-employer, the petitioner will be at loss as the indisciplined workers will be required to be reinstated by virtue of order impugned, which according to him is without jurisdiction. In addition, he would invite my attention to serious defaults/ lapses on the part of the employee resulting in serving of charge-sheet on and the nature of allegations so as to claim that once the law permits the petitioner to justify the termination without holding inquiry, such termination came to be justified before the Labour Court. According to him, the court below has committed an error by granting the relief of reinstatement ignoring the above claim of the petitioner. Drawing support from the charge-sheet and also the statement of claim, he would further urge that the only ground on which the interim relief by the court below is granted, is the provisions of Maharashtra Industrial Employment (Standing Orders) Rules 1959 is not complied with to mean that the inquiry was not conducted against the respondent before ordering their termination. In the aforesaid background, if the claim is answered in favour of the respondent, the respondent will be entitled for consequential reliefs as may be ordered by the Labour Court.

6. While countering the aforesaid submissions the counsel for the respondent would urge that admittedly the provisions of the aforesaid rules which contemplates holding of an inquiry before the Draconian action of termination of employment is not complied. He would urge that the petitioner-employer has not acted in terms of the understanding *inter-se* reached vide consent terms dated 22nd August, 2017. He would further claim that the nature of relief ordered by the Labour Court is considering the equities and that being so, this court need to be slow in causing interference in extraordinary jurisdiction. Even otherwise according to him, the court can work out the equities by directing petitioner-employer to pay the subsistence allowance. The learned counsel for Respondent has relied on the judgment of the Apex Court in the matter of **State Bank of Patiala and ors. Vs. S.K.Sharma** reported in **(1996) 3 Supreme Court Cases 364**. He would urge that the substantive provisions since contemplate holding of an inquiry against the respondent-employee which admittedly is not conducted in the case in hand, there has to be a sufficient cause to the satisfaction of the court to interfere when the inquiry was dispensed with before the order of termination and the employer is entitled for opportunity to justify such termination by leading evidence before the Labour Court.

7. I have appreciated the said submissions. The fact remains that the charge-sheet in categorical terms speaks of the default committed by the respondent-employee. The petitioner has come out with a case of around 9 defaults on the part of the respondent-employee. Petitioner claims loss of confidence in the respondent-employee. It is claimed that the aforesaid conduct of the respondent-employee has prompted the petitioner to take decision of termination of employee. No doubt the petitioners' claim that they are entitled to justify such termination by adducing evidence before Labour Court which is a settled position of law, however, this court needs to be sensitive to the fact as to whether relief in the nature of reinstatement by way of interim nature can be granted at this stage. The counsel for the petitioner in my opinion is justified in claiming that the final relief which the respondent-employee is claiming is of reinstatement. In case the reference is answered against the respondent-employee, the petitioner will be put to losses whereas in case reference will be answered in favour of the respondent-employee, of-course necessary consequences will be followed. It is not the position of law that at interim stage relief of reinstatement cannot be granted, however it is required to be noted that same has to be based on strong *prima facie* case viz *prima facie* illegal termination which is arbitrary at its face value, absence of any material or lack of legal bases, victimisation etc. In the case in hand it can be noticed that their

exist enough material in the charge-sheet from which the decision of employer of that of termination of the respondent-employee at this stage is sought to be justified.

8. Though relying on the judgment of the Apex Court in the matter of **State Bank of Patiala** (supra) the counsel for respondent has claimed that the reasons for ordering termination in absence of inquiry are not sufficient. The allegations in the charge-sheet against the respondent No.1, the claim of loss of confidence, insubordination *prima facie* appears to be bases to justify the action of the issuance of the order of termination.

9. In the aforesaid background, particularly having regard to the nature of charges alleged against the respondent-employee, in my opinion the Labour Court has committed an error in granting interim relief thereby ordering reinstatement at the preliminary stage of proceeding. Rightly so claimed that such relief amounts to granting final relief. In my opinion the order impugned dated 27th April, 2022 is not sustainable in law. The order impugned dated 27th April, 2022 is hereby quashed and set aside. The application preferred by the respondent No.1 for grant of interim relief Ex.U4 stands rejected. However, the respondent No.1-employee is at liberty to moving before the Labour Court seeking the relief of interim i.e. for other than grant of

reinstatement.

10. As such, the petitions are allowed in above terms.

(NITIN W. SAMBRE, J.)

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