

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

WRIT PETITION NO. 5683 OF 2021

Maharashtra State Co-operative Cotton -- Petitioners
Growers Marketing Federation Ltd. & Ors.

Vs.

Maharashtra State Co-operative Cotton -- Respondent
Growers Marketing Federation Employees
Union

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

Court's or Judge's orders

Mr. A.A. Sambaray, Advocate with Mr. R.S. Subhedar,
Advocate for Petitioners
Mr. Parag A. Kadu, Advocate for Respondent

CORAM : MANISH PITALE, J.

DATE : 06th JUNE, 2022

By this writ petition, the petitioners have challenged order dated 21/08/2021, passed by the Industrial Court, Amravati Bench, Amravati, whereby application at Exh.157, filed by the petitioners for recasting of issues has been only partly allowed and substantial relief has been rejected.

2. In the present case, the respondent – Union filed Complaint under the provisions of the Maharashtra

Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (M.R.T.U. & P.U.L.P. Act), claiming disbursement of monetary benefits for the employees. Issues were framed for determination on 17/03/1999. The petitioners claimed that a Voluntary Retirement Scheme (VRS) was floated and 1947 employees were benefited by the same. According to the petitioners, the said fact propelled the petitioners to move the application for recasting of issues before the Industrial Court. The petitioners sought addition of as many as six issues to the already framed issues with a prayer for deletion of issue No.1. It was claimed that issue No.1 was rendered redundant for the reason that amount of Rs.7,00,000/- already stood deposited by the petitioners and it was withdrawn by the respondent – Union.

3. By the impugned order, the Industrial Court took into consideration the contentions raised by the rival parties. The application was partly allowed to the extent that issue No.1 was directed to be deleted in view of the admitted position on facts. As regards the other issues, the Industrial Court found that the Complaint was filed as far back as in the year 1989 and the issues were framed in the year 1999. The Complaint was at the stage of final hearing and in view of specific directions given by this Court for expeditious

disposal of the Complaint, recasting of issues was warranted and the proposed issues were found not to be germane. Accordingly, the request for recasting and addition of proposed issues was rejected.

4. Mr. Sambaray, learned counsel appearing for the petitioners submitted that amendment of pleadings were permitted before the Industrial Court as a consequence of which relevant pleadings pertaining to VRS were already on record. On this basis, it was submitted that even though the Complaint was of the year 1989, in view of subsequent developments pertaining to VRS being accepted by 1947 employees, it was necessary that the proposed issues be framed.

5. On the other hand, Mr. Kadu, learned counsel for the sole respondent – Union submitted that the aspect of VRS being accepted by some employees would be covered under issue No.2 already framed by order dated 17/03/1999, by the Industrial Court. It was submitted that the respondent – Union has something to say even about acceptance of VRS by 1947 employees, because it was without the consent of the respondent – Union. It was submitted that since this Court had issued directions repeatedly for expeditious

disposal of the Complaint, the Industrial Court was justified in passing the impugned order.

6. This Court has considered the issues that were framed on 17/03/1999, by the Industrial Court and the proposed issues on behalf of the petitioners. The aspect of VRS having been floated by the petitioner – Federation and acceptance of the same by 1947 employees has been already placed on record by way of amendment of pleadings by the parties before the Industrial Court. The aspect of issuance of recovery certificate for a specific amount would be impacted by the fact that the VRS was accepted by some of the employees. This was indeed a development subsequent to filing of the Complaint. By way of amendment, pleadings relevant to the aforesaid aspect are already on record.

7. In this backdrop, this Court is of the opinion that framing of subsequent issue pertaining to VRS was warranted in the facts and circumstances of the present case, which the Industrial Court failed to appreciate. This Court is not in agreement with the contentions raised on behalf of respondent – Union that the aforesaid aspect was subsumed in issue No.2, already framed on 17/03/1999. The subsequent development of VRS having been floated and the same being accepted by 1947 employees requires

adjudication on the aspect of VRS and its consequent impact on prayer clause (c) in the Complaint pertaining to issuance of recovery certificate for a specific amount. The other proposed issues are irrelevant, as they are clearly covered by the issues already framed by the Industrial Court.

8. It is significant that the learned counsel appearing for the petitioners, on instructions, makes a statement that they do not intend to lead evidence, even if the additional issue pertaining to VRS is framed for determination, thereby indicating that proceedings before the Industrial Court would not be delayed on that count.

9. In that view of the matter, the writ petition is partly allowed. The impugned order is set aside to the extent that the Industrial Court refused to frame any further issue in the matter. In view of the contentions raised on behalf of the rival parties, it is directed that the following additional issue stands framed to be determined by the Industrial Court in the present matter :

“Whether acceptance of VRS by 1947 employees would impact the extent to which the recovery certificate could be issued, in the backdrop of prayer clause (c) of the Complaint?”

10. It is made clear that this Court has not expressed any opinion on the aforesaid issue and that the rival parties are at liberty to argue before the Industrial Court on all aspects of the aforesaid issue.

11. Needless to say, the respondent – Union is at liberty to raise contentions in consonance with the pleadings already amended on the aspect of VRS.

12. The Industrial Court shall now proceed to decide the Complaint on the issues already framed along with additional issue framed by this Court hereinabove. An endeavour shall be made to decide the Complaint expeditiously and in any case within a period of six weeks from today.

13. The writ petition stands disposed of.

JUDGE