

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2425 OF 2023

**SUNFRESH AGRO INDUSTRIES PVT LTD (PRABHAT DAIRY)
THROUGH ITS MANAGING DIRECTOR
VERSUS
NILESH SURESH BORDE AND OTHERS**

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Advocate for Petitioner : Mr. Arvind R. Joshi
Advocate for Respondent Nos. 1 to 4 : Mr. Nitn S. Kadarale

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 17TH APRIL, 2023

PER COURT :

1. Learned advocate for petitioner undertakes to file typed copies of annexures within a period of one week from today.
2. Petitioner is aggrieved by the order dated 01/12/2022, passed by the Member, Industrial Court, Ahmednagar, below Exhibit-U-2 in Complaint (ULP) No.27/2022.
3. By filing complaint under Item-1(a) and 4(a), (c) of Schedule II and Item – 3 , 5 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'the said Act'), respondents have challenged their transfer orders being malafide. Along with the complaint application Exhibit-U-2 is filed for stay to the transfer orders. Industrial Court, after hearing the parties and going through

the record has allowed the application and stayed the orders of transfer issued to respondents till disposal of complaint. Petitioner is aggrieved by the same.

4. Heard learned advocate for petitioner and learned advocate for respondent Nos. 1 to 4. Perused the memo of writ petition, annexures thereto, impugned order and the affidavit-in-reply filed by respondents.

5. Admittedly, services of respondents are transferable and employer has right to transfer the employees. Facts of the present matter appear to be peculiar. The Industrial Court has recorded a finding that *prima facie* transfers are actuated by malafide and element of bias is there. It is further observed that the petitioner has not given satisfactory explanation about need of transfer of respondents and their transfer is not routine transfer. In the light of these facts, Industrial Court has rightly granted stay to the impugned transfer orders. Industrial Court has taken a possible view and has rightly exercised discretion in favour of the respondents. This Court is not inclined to exercise its extraordinary writ jurisdiction to interfere in the well reasoned order passed by the Industrial Court.

6. Considering the limited issue raised before the Industrial Court and rival contentions of the parties, writ petition is

disposed of by directing Industrial Court to decide Complaint (ULP) No.27/2022 within three months from the date of receipt of writ of this order.

7. Needless to state that observations made in this order are *prima facie* and Industrial Court shall not be influenced by them at the time of deciding complaint on merits.

(NITIN B. SURYAWANSHI, J.)