

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

WRIT PETITION NO. 1879 OF 2022

Pushkar Chemical and Fertilizers
Limited

....Petitioner

V/s.

Shashikant Sadashiv Ambre

...Respondent

**ALONGWITH
WRIT PETITION NO. 1877 OF 2022**

Pushkar Chemical and Fertilizers
Limited

....Petitioner

V/s.

Mahesh Mohan Naralkar

...Respondent

**ALONGWITH
WRIT PETITION NO. 1881 OF 2022**

Pushkar Chemical and Fertilizers
Limited

....Petitioner

V/s.

Satish Baliram Jadhav

...Respondent

**ALONGWITH
WRIT PETITION NO. 1884 OF 2022**

Pushkar Chemical and Fertilizers
Limited

....Petitioner

V/s.

Suraj Dipak Chavan

...Respondent

**ALONGWITH
WRIT PETITION NO. 1885 OF 2022**

Pushkar Chemical and Fertilizers
Limited

....Petitioner

V/s.

Akshay Bhagwan Gotmukle

...Respondent

Mr. Vaibhav Jagdale, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

Dated : 9 November 2023.

P.C. :

1. A praceipe is moved for speaking to the minutes of the order dated 30 October 2023.

2. It is pointed out that Writ Petition No. 1879 of 2022 bears the incorrect name of the Respondent 'Mahesh Mohan Naralkar'. The correct name ought to have been 'Shashikant Sadashiv Ambre'.
3. The said corrections be carried out and the order be read accordingly.

SANDEEP V. MARNE, J.

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...Respondent

Mr. Avinash Jalisatgi a/w. Mr. Divya Wadekar i/by. Mr. Vaibhav Jagdale, for the Petitioner.

Ms. Seema Chopda a/w. Mr. T.R. Yadav, for the Respondents.

CORAM : SANDEEP V. MARNE, J.

Dated : 30 October 2023.

P.C.:

1. By the present petitions, Petitioner challenges orders dated 6 March 2021 passed by the Labour Court allowing Application filed by Respondents at Exhibit-U-2 and thereby granting interim relief to restrain the Petitioners from terminating services of Respondents. Respondents also challenge orders dated 23 December 2021 passed by the Industrial Court rejecting their Revision Applications.

2. I have heard Mr. Jalisatgi, the learned counsel appearing for Petitioners and Ms. Chopda, the learned counsel appearing for Respondents.

3. Present Petitions involve the question of stopping the employer from passing final orders in domestic inquiry after proof of charge. The Respondents have been subjected to domestic enquiry by levelling charges. Respondents have participated in the domestic enquiry and also conducted cross-examination of the management witnesses. I have gone through the report of the Enquiry Officer and *prima-facie*, it appears that there is some evidence on record to prove the charges. Perusal of the orders passed by the Labour Court would indicate that the Labour Court has taken into consideration extraneous factors such as non-grant of service benefits, causing harassment etc. for the purpose of granting interim relief by allowing application at Exhibit-U-2. The orders passed by the Labour Court would indicate that there is no application of mind about the manner

in which the enquiry is conducted and also with regard to the evidence that is brought by the management on record. Without considering these aspects, the Labour Court has proceeded to allow the Applications at Exhibit-U-2.

4. The substantive proceedings filed by the Respondents challenging the enquiry proceedings are still pending. The Labour Court and Industrial Court, at this juncture, have recorded only *prima-facie* findings about the manner of conducting enquiry and about the evidence that is available on record.

5. In my view, there is some *prima-facie* evidence on record for permitting the management to take the domestic enquiry to its logical end.

6. Considering the evidence produced on record, the management cannot be prevented from passing any final penalty order in pursuance of the show cause notices issued to the Respondents after receipt of enquiry reports. In that view of the matter, the present petitions can be disposed of by granting an opportunity to the management to pass final orders in pursuance of the show cause notices issued to the Respondents. The Respondents would be at liberty to challenge the final penalty orders by adopting appropriate proceedings.

7. The Writ Petitions are accordingly disposed of by passing the following order :

- (i) The Respondents shall submit their replies to the second show cause notices received by them within a period of four weeks from today.
- (ii) The Management shall pass appropriate orders after considering the findings of the Enquiry Officer and the reply filed by the Respondents.
- (iii) In the event, the Management decides to terminate the services of the Respondents, the termination order shall not be given effect for a period of two weeks from the date of communication of order of termination to the Respondents.
- (iv) In the event, the Respondents challenge the penalty order passed by the management in the domestic enquiry, the Labour Court shall consider any interim application filed by the Respondents, on its own merits without being influenced by either of the impugned orders passed by the Labour Court or Industrial Court or by the present order.

8. With the above directions, the Writ Petitions are **disposed of**.

SANDEEP V. MARNE, J.

Note : Corrections are carried out in the cause-title only pursuant to speaking to minutes of the order dated 9 November 2023.