

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

WRIT PETITION NO. 14348 OF 2022

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Maharashtra Rajya Anganwadi Karmachari Sangh ...Petitioner

vs.

Chief Executive Officer, Nashik Zilha Parishad ...Respondent

Ms. Deepali K. i/b. Mr. Meenaz Kakalia, for the Petitioner.

Mr. Vivek Rane i/b. Mr. A.R. Kapadnis, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 25, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order dated 30th September, 2019 passed by the learned Presiding Officer, Industrial Tribunal, Nashik in Reference (IT) No. 2 of 2017 whereby the Reference came to be rejected for want of prosecution. The petitioner thereafter preferred Misc. Application (IT) No.2 of 2020 to restore the Reference (IT) No. 2 of 2017 to file and adjudicate the same on merits.
3. By an order dated 19th April, 2022 Misc. Application also came to be rejected. While rejecting the application, the learned Member, Industrial Court, Nashik noted that the Reference could not have been rejected for want of prosecution. However, since the

order dated 30th September, 2019 was passed by a coordinate Court, the Misc Application came to be rejected.

4. I have perused the impugned order.

5. It indicates that on the date the Reference came to be rejected for want of prosecution an application for adjournment was filed on behalf of the second party to lead the evidence. The learned Member was, however, of the view that sufficient time was granted to the second party to lead evidence and thus the application for adjournment came to be rejected. Evidently, on the date the Reference came to be rejected there was appearance on behalf of the second party and the Court could not have resorted to Rule 26 of the Industrial Disputes (Bombay) Rules, 1957. In any event, it would be expedient in the interest of justice that the Reference is adjudicated on merits. Thus to advance the cause of substantive justice, the petition stands allowed.

6. The impugned order dated 19th April, 2022 in Misc. Application (IT) No.2 of 2020 and the order dated 30th September, 2019 dismissing the Reference (IT) No. 2 of 2017 stand quashed and set aside.

7. The Reference (IT) No. 2 of 2017 stands restored to the file of the Industrial Court, Nashik for adjudication on merits.

8. The parties shall appear before the Industrial Court, Nashik on 16th May, 2023.

9. The second party shall file affidavit of evidence within one week of the scheduled date for the appearance of the parties.

10. The second party shall not seek adjournment save in exceptional circumstances.

11. The learned Member, Industrial Court is requested to decide the Reference as expeditiously as possible.

12. It is clarified that this Court has not entered into the merits of the matter.

(N. J. JAMADAR, J.)