

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1657 OF 2023

Excel Employees Union

...Petitioner

vs.

Maharashtra Samarth Kamgar
Sanghatana and Another

...Respondents

**WITH
WRIT PETITION NO.14976 OF 2022**

Mr. M.S. Topkar, for the Petitioner in WP No. 1657 of 2023 and for Respondent No. 1 in WP No. 14976 of 2022.

Mr. Neel Helekar, for the Petitioner in WP No.14976 of 2022 and for Respondent No. 1 in WP No. 1657 of 2023.

Mr. Rajesh Gandhi a/w. Mr. Mahendra Agvekar and Ms. Shraddha Chavan, for the Respondent No. 2.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 14, 2023

P.C.:

1. Heard the learned counsel for the petitioner.
2. The petitioner in Writ Petition No. 1657 of 2023 is the applicant in Application (MRTU) No. 16 of 2021 and the petitioner in Writ Petition No. 14976 of 2022 is the non-applicant union in the said application. The respondent No. 2 is the Undertaking.
3. Both the applicant and non-applicant union before the learned Member, Industrial Court, Thane in Application (MRTU) No. 16 of 2021 preferred under section 13 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971

(the Act, 1971) for cancellation of the status of non-applicant No. 1 union as the recognized union, are aggrieved by the interim order passed by the Industrial Court on 18th November, 2022.

4. The relevant portion of the said order reads as under:-

(i) Application Exh. U-2, in the Application (MRTU) No. 16 of 2021, is hereby partly allowed, as under -

(ii) The non-applicant No. 2 Employer is temporarily restrained from passing any financial benefits to the non-applicant No. 1 Union, namely Maharashtra Samarth Kamgar Sanghatana, during the pendency of this application before this Court.

(iii) The non-applicant No. 2 Management shall continue to negotiate with the non-applicant No. 1 Union, however the settlement of agreement arrived at, in consultation with the non-applicant No. 1 Union, shall be subject to the prior approval of this Court, till final disposal of this application.

5. The petitioner in Writ Petition No. 1657 of 2023 is aggrieved by the clause (iii) whereby the Industrial Court permitted the non-applicant No. 2 Management to continue to negotiate with the non-applicant Union, however, the settlement or agreement which may be arrived at, is made subject to prior approval of the said Court.

6. The learned counsel for the petitioner in Writ Petition No. 1657 of 2023 submits that the learned Industrial Court, Thane has sought to usurp the jurisdiction which is not vested in him under

the provisions of the Act, 1971.

7. The petitioner in Writ Petition No. 14976 of 2022 is aggrieved by clause (ii) of the order extracted above primarily.

8. It is submitted that without holding an inquiry as is envisaged by section 13 of the Act, 1971, the Industrial Court could not have restrained the petitioner/ non applicant Union from exercising its statutory right in the capacity of recognized union.

9. Evidently, having taken a prima facie view about the number of workmen who bear allegiance to the respective union, the Industrial Court, Thane by way of interim arrangement passed the aforesaid order.

10. The Court is informed that the parties have filed affidavits.

11. Having regard to the nature of the dispute, it may be appropriate to request the Industrial Court to decide the application itself finally, expeditiously.

12. In the meanwhile, in the event the negotiations between the Undertaking and non-applicant No.1 Union fructify, before the settlement or agreement is executed, at least two weeks notice be given by respondent No. 2 Undertaking to the petitioner/ applicant in Application No. 1657 of 2023, post execution of draft settlement or agreement.

13. Subject to the aforesaid directions, in the circumstances of the

case, the Court does not find it expedient to interfere with the impugned order.

14. The Member, Industrial Court, Thane is requested to decide the Application (MRTU) No. 16 of 2021 as expeditiously as possible and preferably within a period of four months from today.

15. Petitions disposed.

(N. J. JAMADAR, J.)