

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

WRIT PETITION NO. 15021 OF 2022.

State Bank of India Staff Union & Ors. .. Petitioners
vs.
Ulhas M. Khot .. Respondent

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Mr. Vijay Vaidya, with Mahendra Agvekar., Shraddha Chavan, for the Petitioners.

Mr. Gayatri Singh, Senior Advocate, with Hamza Lakdawala, i/b. V.G. Sreeram, for the Respondent.

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CORAM: SANDEEP V. MARNE, J.

DATE : 29 AUGUST 2023.

P. C.:

1. By this Petition, the Petitioners challenge order dated 19th November 2022 passed by the Industrial Court, Mumbai in Application (ICTU) No. 6 of 2022.

2. The Application (ICTU) No. 6 of 2022 was filed by Petitioners who are opponents before the Industrial Court with the prayer that the issue of maintainability of the proceedings and jurisdiction of the Court be decided as a preliminary issue.

However, it appears that in the order dated 19th November 2022, the Industrial Court has not just acceded to the request of the Petitioners in treating the said issue about maintainability and jurisdiction as a preliminary issue but has rejected the objection about maintainability and jurisdiction.

3. Mr. Vaidya, the learned counsel for the Petitioners would submit that Petitioners never argued the issue of jurisdiction or maintainability and the entire case law reproduced by the Industrial Court were on the issue of framing the preliminary point. He would submit that the Petitioners did not have an opportunity of presenting their case on the issue of maintainability and jurisdiction.

4. Ms. Singh, the learned senior counsel for the Respondent, on the other hand, would submit that the Industrial Court has decided the issue of maintainability and jurisdiction after hearing both the side. She would further submit that since the issue in the main proceedings are about validity of elections, the Petitioners cannot be permitted while away time by delaying decision of the main proceedings by raising technical pleas.

5. After considering the arguments canvassed by the learned counsels for the parties and after going through the impugned order dated 19th November 2022, it appears that the Industrial Court has proceed to decide issue of jurisdiction and maintainability. The prayer of the Petitioners in Application (ICTU) No. 6 of 2022 was as under:

“3. It is prayed that the issue of maintainability of the present proceedings and the jurisdiction of this Court to hear the present Application be tried and decided as a preliminary issue. Necessary orders in the interest of justice be passed.”

6. The Industrial Court was thus supposed to decide whether the issue of jurisdiction and maintainability could be decided as the preliminary issue or not. Instead of doing so, the the Industrial Court has proceeded to decide the issue of jurisdiction and maintainability and has answered the same against the Petitioners.

7. In that view of the matter, the order passed by the Industrial Court is unsustainable. The order dated 19th November 2022 passed by the Industrial Court is accordingly set aside. The Industrial Court shall proceed to hear the Applicants and

opponents before it on the issue of jurisdiction and maintainability and decide the same as expeditiously as possible preferably within a period of two months from today. It shall not be influenced by any of the observations made in the order dated 19th November 2022.

8. With the above observation, the Writ Petition is disposed of.

SANDEEP V. MARNE, J.