

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.962 OF 2023**

Siddhartha Logistics Co. Ltd. & Anr.	...	Petitioners
versus		
Surendra Dattaram Shinde	...	Respondent

Mr. Ajit S. Karwande, for Petitioners.
Mr. Bhavik P. Manek, for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 3 APRIL 2023

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 6 December 2022 passed by the learned Presiding Officer, Labour Court, Mumbai, on an Application (Exhibit C-5) in Complaint (ULP) No.26 of 2020, whereby the application preferred by the Petitioners (Respondents in the Complaint) for stay of the said complaint, came to be rejected.
3. The Petitioner No.1 is a company registered under the Companies Act, 1956. Respondent had joined the Petitioner No.1 as a clerk. The Petitioners placed the Respondent under suspension vide an order dated 26 May 2017 for the grounds mentioned therein. The Respondent filed a Complaint (ULP) No.393 of 2017 alleging unfair labour practices under Items 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (the

Act of 1971).

4. The Petitioners questioned the maintainability of the complaint on the ground that the Respondent was not a workman under Section 2(S) of the Industrial Disputes Act, 1947 or “employee” under Section 3(5) of the Act of 1971. The Industrial Court answered the issue in favour of the Respondent-workman.

5. The Petitioners assailed the said determination by filing Writ Petition No.264 of 2019. By an order dated 9 December 2019, this Court issued Rule. However, the Industrial Court was requested to dispose the Complaint as expeditiously as possible and preferably within a period of 9 months from the date of the said order.

6. Eventually, the Industrial Court allowed the Complaint (ULP) No.393 of 2017. The Petitioners assailed the said order in Writ Petition (L) No.4797 of 2021. This Court again issued Rule and expedited the hearing of the said Writ Petition and Writ Petition No.264 of 2019.

7. By an order dated 23 November 2019 the Petitioners dismissed the Respondent from service. Thereupon, the Respondent filed a Complaint (ULP) No.26 of 2020 of unfair labour practice under Item 1(a), (b), (d), (e), (f), (g) of Schedule IV of the Act of 1971. In the said complaint, the Petitioners preferred an application for stay of the proceedings till the final disposal of Writ Petition No.264 of 2019 and Writ Petition (L) No.4797 of 2021.

8. By the impugned order dated 6 December 2022, the learned Presiding Officer, Labour Court, was persuaded to reject the application for stay opining, *inter alia*, that the aforesaid orders in the Writ Petition No.264 of 2019 and Writ Petition (L) No.4797 of 2021 do not indicate that the orders impugned therein have been set aside. Nor the proceedings have been directed to be stayed. Being aggrieved, the Petitioner is before this Court.

9. I have heard Mr. Karwande, learned Counsel for the Petitioners, and Mr. Bhavik P. Manek, learned Counsel for the Respondent.

10. Mr. Karwande would urge that the proceedings in Complaint (ULP) No.26 of 2020 are required to be stayed till the final decision in Writ Petition No.264 of 2019 and Writ Petition (L) No.4797 of 2021 as in the event the aforesaid petitions are decided in favour of the Petitioners, the Petitioners would be left in the lurch. Mr. Karwade took the Court through the orders passed by this Court in Writ Petition No.264 of 2019 and Writ Petition (L) No.4797 of 2021.

11. I am afraid to accede to the aforesaid submissions. The orders passed in the aforesaid Writ Petitions, if properly construed, render the submissions sought to be canvassed on behalf of the Petitioners unworthy of countenance. In the order dated 9 December 2019 passed in Writ Petition No.264 of 2019, impugning the decision on preliminary issue, this Court had made it clear that there would no interim relief and, in fact, requested the Industrial Court to decide the complaint

expeditiously. Likewise, in the order dated 25 March 2021 in Writ Petition (L) No.4797 of 2021 while granting Rule, this Court had not stayed the effect, operation and implementation of the final order passed in Complaint (ULP) No.393 of 2017.

12. In the face of these orders, the Petitioners cannot heard to urge that further proceedings in Complaint (ULP) No.26 of 2020 lodged by the Respondent, post dismissal from service by an order dated 23 November 2019, be stayed till the final disposal of the aforesaid Writ Petitions. In any event, the prayer for stay of the proceedings could not have been made before the Labour Court.

13. The learned Presiding Officer, Labour Court was, thus, justified in declining to accede to the prayer to stay the proceedings in Complaint (ULP) No.26 of 2020 on the count of pendency of Writ Petition No.264 of 2019 and Writ Petition (L) No.4797 of 2021 in this Court. Resultantly, no interference is warranted in exercise of extra-ordinary writ jurisdiction.

14. Hence, the Writ Petition stands dismissed with costs.

(N.J.JAMADAR, J.)