



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 2650 OF 2023

Mohd. Aslam Shaikh

.. Petitioner

Versus

The Principal M.H. Saboo Sidik College of
Engineering No.8 Saboo Siddik and Ors.

.. Respondents

-
- Mr. Shailesh More, Advocate for Petitioner.
 - Mr. Shaikh Nasir Masih, Advocate for Respondents.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 11, 2023.

P.C.:

1. Heard Mr. More, learned Advocate for Petitioner and Mr. Shaikh, learned Advocate for Respondents.

2. The present Writ Petition takes exception to the order dated 24.03.2023 passed at an interlocutory stage in pending Complaint (ULP) No.233 of 2017 in an Application filed below Exhibit U-11. By the said Application, Petitioner / Complainant sought an amendment to the complaint and sought to add paragraph Nos.3(ii)(a) and 3(ii)(b) as noted and reproduced in the order.

3. Finding given in the impugned order is to the effect that the additions sought by the Petitioner / Complainant was admittedly not pertaining to any subsequent event/s which would have any bearing

on the complaint filed by Petitioner. Petitioner has pleaded that subsequent to filing of the complaint, in an Application under the Right to Information Act, 2005, he was informed that the Standard Code relied upon by the Respondent – Management for effecting his transfer was not in existence.

4. In that view of the matter, Petitioner / Complainant desired to plead that his transfer was based on a completely non existing Standard Code and the same was impermissible.

5. Mr. More would submit that he had filed Writ Petition being Writ Petition No.6378 of 2010 earlier in this Court which was disposed of by order remanding the matter back to the learned Industrial Court for disposal. It is seen that the learned Single Judge of this Court as well as subsequently the Division Bench of this Court in Appeal have passed orders dated 09.11.2009 and 14.02.2009. The fact of filing these Writ Petitions was also sought to be brought on record by the Petitioner / Complainant in the pending complaint before the Industrial Court by virtue of the amendment sought by adding amended paragraph Nos.3(ii)(a) and 3(ii)(b).

6. The learned Industrial Court while dealing with the proposed amendment returned a finding that admittedly these events not been subsequent events do not impinge upon the transfer order of the Petitioner / Complainant and only depict the status of what

actually transpired in this Court as well as the Industrial Court.

7. In view of the above, I do not find any reason to interfere with the impugned order, save and except to keep the question with respect to the applicability of the correct Standard Code open for Petitioner - Complainant to plead before the learned Industrial Court where his complaint is pending and he shall be at liberty to lead evidence on the same in support of his case and also be entitled to cross-examine the institution's witness on the applicability of the correct applicable Standard Code in his case. The impugned order is sustained.

8. Needless to state that all questions of the parties are expressly kept open in so far as issue of applicability of the Standard Code to the Petitioner's case is concerned.

9. The learned Industrial Court is directed to decide the pending Complaint (ULP) No.233 of 2017 preferably within a period of eight (8) weeks from today on the production of an authenticated copy of this order.

10. Both parties shall appear before the Industrial Court on 14th September, 2023 at 12:00 noon with a copy of this order for fixing the schedule for hearing of the Complaint by the learned Industrial Court as per the Court's convenience. It is clarified that this Court has not opined on any merits of the matter in this order.

11. The learned Industrial Court is directed not to grant any unnecessary adjournment to the parties unless absolutely necessary.

12. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

Ajay