

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 6110 of 2022

The Vidarbha Premier Cooperative Housing society, Nagpur
Vs.

The Vidarbha Premier Cooperative Housing Society
Karmachari Union, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr.V.P.Marpakwar, counsel for the Petitioner.

Mr.D.M.Kakani, counsel for the respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : 09.01.2023.

Heard the learned counsel for the respective parties.

2. A complaint for payment of annual increment and dearness amount was filed by respondent No.1-Union along with an application under section 30 of the Maharashtra Recognized Trade Union and Prevention of Unfair Labour Practice Act, 1971, for interim relief.

3. The said application was allowed by the impugned order below Exhibit-U-2, dated 07/06/2022,

passed by the Industrial Court No.1, Nagpur in Complaint (ULP) No.152 of 2021.

4. Shri Marpakwar, learned counsel for the petitioner, submits that the final relief has been granted at the interim stage, which is not permissible in the eyes of law. For this purpose, he has placed reliance on a judgment in the case of *Western Coalfields Limited Employees Cooperative Credit Society Ltd. v. Industrial Court, Nagpur and another*, reported in **2002 (1) Bom.LC 399 (Bom)**.

5. He further submits that whether cooperative society is an 'industry', is the issue involved in the present case, which the learned Industrial Court did not decide and granted interim relief, therefore, the impugned order is erroneous and liable to be quashed and set aside.

6. On the other hand, Shri Kakani, learned counsel for respondent No.1, supports the impugned order and prays for dismissal of the present petition.

7. I have perused the documents filed along with the writ petition and the impugned order.

8. In this case, the petitioner is not disputing that there was an agreement between the petitioner and

the Union as regards the payment of annual increment and dearness amount. Furthermore, the document at Page-112 dated 23/03/2002 is a notice of change under section 9-A of the Industrial Disputes Act, 1947, issued by the petitioner, is also not in dispute. Whereupon, it is evident that the said notice was issued under the Industrial Disputed Act. Moreover, it has observed by the learned Industrial Court that in earlier proceedings, the petitioner never raised the issue that the petitioner is not an 'industry'.

9. In the circumstances, after going through the observations made by the learned Industrial Court while granting interim relief, I am of the opinion that no error or perversity has been committed by the Industrial Court and hence, no interference is required.

10. As far as the judgment cited by the learned counsel for the petitioner in the case of **Western Coalfields Limited Employees Cooperative Credit Society Ltd. v. Industrial Court, Nagpur and another** (*supra*), is concerned, it is distinguishable on facts and accordingly it is of no help to the petitioner in the present case.

11. In that view of the matter, the writ petition is dismissed. No order as to costs.

12. It is made clear that the observations made in this order are *prima facie* and the Industrial Court should not influence by it while passing the final order.

[ANIL S. KILOR, J.]