

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

WRIT PETITION NO.6951 OF 2022

(RASHTRIYA MILL MAZDOOR SANTH, ACHALPUR..VS.. CHAIRMAN CUM MANAGING
DIRECTOR, NATIONAL TEXTILE CORPORATION LTD. & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.D. Thakur, Advocate for Petitioner.
None for Respondent Nos. 1 and 2.
Shri R.B.Puranik & Shri Mihir Puranik, Advs. for Respondent No.3.

CORAM : ANIL S. KILOR, J.
DATED : APRIL 26, 2023.

1. Heard.

2. The petitioner is a Labour Union and has approached this Court raising a grievance that the respondents are deducting 50% wages of the workers every month since 23/03/2020 and continued the same even today. It is the case of the petitioner that they are entitled for 100% wages as per the settlement arrived at between the respondents and the petitioner on 31/08/2017.

3. It is submitted that during the pandemic Covid-19 the respondent No.3-mill was closed for the period from 23/03/2020 till 31/03/2020. However, contrary to the directions issued by the State Government as well as Central Government, not to deduct any salary/wages, the respondent No.3 is deducting 50% of wages of the workers i.e. members of the petitioner union.

Therefore, it is submitted that the application under Sections 78 and 79 of the Bombay Industrial Relations Act, 1946 (hereinafter referred to as “the Act of 1946”) was moved along with an application under Section 119-D of the said Act for grant of interim relief. The application for interim relief was objected by the respondents by filing Preliminary Objection raising grounds as regards the maintainability and also on the ground of limitation.

4. The learned Labour Court vide order below Exh.U-2, dated 28/02/2022 rejected the application. The same was carried in the appeal before the Industrial Court, and the Industrial Court maintained the same vide impugned order dated 17/09/2022.

5. It is submitted that both the Courts below have committed error in not appreciating the law as regards limitation and maintainability of the application. It is submitted that despite the fact that approach notice is not necessary in the present matter, the Court has observed that the approach notice was not issued. Shri Thakur, learned counsel for the petitioner, therefore, submits that both the Courts below have committed error in holding that the relief claimed by the petitioner is a final relief. He accordingly, prays for quashing and setting aside the order impugned in the present writ petition.

6. On the other hand, Shri Puranik, learned counsel for the respondent No.3 strongly opposed the application and raised objection as regards limitation and also tenability. He has also raised an objection on the ground that approach notice was not issued. Accordingly, he prays for dismissal of the present writ petition.

7. In light of the rival submissions, I have perused the record and the impugned orders.

8. The learned Industrial Court, relying upon the judgment in the case of *Sourashtra Majoor Mahajan Sangh.. ..vs.. Una Taluka Khedut Sahakari Khand Udyog Ltd. and Anr.*, reported in **1994(1) CLR 499**, has held that since in the present matter, the question of maintainability and limitation is pending, the relief sought in the interim application cannot be granted.

9. There is no dispute that the members of the petitioner union are receiving 50% wages. There is no doubt that there is a settlement between the petitioner and the respondent dated 31/08/2017 and also there are directions by the Union of India as well as State of Maharashtra to pay full wages to the workers during Covid-19 period.

10. However, considering the reasons recorded by both the Courts below, I am of the opinion that the

purpose would be served if the proceedings before the Labour Court is expedited and if it is directed to decide it within two months from today. In the circumstances, I pass the following order:

- i) The Writ Petition is disposed of with direction to the learned Labour Court at Amravati to decide the Application BIR No.1 of 2021 on its own merits, after hearing both the parties, within eight weeks from the date of appearance of the parties.
- ii) Both the parties are directed to appear before the Labour Court on 03/05/2023 at 11:00 a.m.
- iii) Both the parties undertake to cooperate the Labour Court to decide the matter within the stipulated period.

The Writ Petition stands **disposed of** accordingly. No order as to costs.

JUDGE

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