



Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 942 OF 2023

AJIT SHIRODKAR

... PETITIONER

Versus

WHISPERING PALMS BEACH

RESORTS, SINQUERIM BEACH ... RESPONDENT

Mr. Shivraj Gaonkar with Mr. Prabhav Sirvoicar,
Advocates for the Petitioner.

Ms. Maria Correia, Advocate for the Respondent.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 4th SEPTEMBER 2024

ORAL ORDER:

1. Heard Mr. Gaonkar for the Petitioner and Ms. Maria Correia for the Respondent.

2. The challenge in the present Petition is to the impugned order passed by the learned Industrial Tribunal dated 06.11.2023, by which, the interim relief Application filed by the Petitioner for grant of wages, came to be rejected.

3. Mr. Gaonkar appearing for the Petitioner submits that the Tribunal was directed by this Court to decide the interim

Application while deciding Writ Petition No. 1030 of 2023 (F) on 29.08.2023.

4. Mr. Gaonkar submits that the Tribunal was supposed to decide only the interim relief Application, however, while deciding so, the Tribunal ventured into the aspect of Section 2(s) of the Industrial Disputes Act and observed that the Petitioner is not the workman.

5. Mr. Gaonkar submits that this observation though at the interim stage, will certainly affect the contentions of the Petitioner in the main matter and therefore, such observation along with the impugned order needs to be quashed and set aside.

6. Per contra, Ms. Correia would submit that such observation is only a *prima facie* observation of the Tribunal while deciding the interim relief Application as per the directions of this Court.

7. Besides this, Ms. Correia submits that the matter is now for evidence and the Employer's witness is already in the box. She submits that instead of deciding the interim

relief Application, the Tribunal could be directed to decide the main matter in a time bound manner.

8. Mr. Gaonkar would submit that even the question of proving the misconduct is raised by the Employer and since there was no chargesheet filed, he is unable to point out as to what are the charges against the Petitioner.

9. Considering the order passed by this Court on 29.08.2023 in Writ Petition No. 1030 of 2023 (F), the learned Industrial Tribunal took up the interim relief Application and decided it vide order dated 06.11.2023. While deciding such an Application, the points for determination were framed. One such point is whether the Party No. 1 is a workman.

10. While answering point no. 2 regarding the workman, the learned Industrial Court has ventured into the documents and evidence and conclusively observed that the Petitioner is not a workman and therefore, he is not entitled to any interim relief.

11. Since the matter is now posted for evidence on merits/ issues framed therein and the Employer's witness is already

in the witness box, the learned Industrial Court could be directed to decide the said proceedings in a time bound manner. However, the observations on point no. 2 in the impugned order are required to be considered only on *prima facie* basis and the Tribunal shall not be influenced by such observations while deciding the main matter on merits.

12. The contentions of all parties in this regard are kept open. The Petitioner is entitled to produce relevant evidence for demonstrating that he is a workman.

13. The proceedings are pending from the year 2021 and since the evidence has already started, directions could be issued to the Tribunal to decide the said Reference preferably within a period of four months from today. However, it is made clear that while deciding the main Reference, the Tribunal shall not be influenced by its earlier observations made in the order dated 06.11.2023 while refusing the interim relief and more specifically, the observations on point no. 2.

14. With the above observations, the Petition stands disposed of. All contentions of all parties are kept open.

15. Parties shall act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.