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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8263 OF 2022

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... Petitioner

V/s.

Premier Employees Union

... Respondent

Mr. Akshay Petkar with Mr. Aniket Malu & Mr. Aditya Nair for the petitioner.

Ms. Gayatri Singh, Senior Advocate with Ms. Shreya Mohapatra i/by Mr. Shreeram V.G. for the respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 18, 2024

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The Industrial Court by impugned Judgment and Award passed following order:
 - “1. Complaint is partly allowed.
 2. It is hereby declared that the respondents committed unfair labour practice as per item 9 of Schedule IV of the MRTU & PULP Act.
 3. It is hereby declared that notice dated 3.3.2020 issued by the company is illegal and hence, it is quashed and set aside.
 4. Respondents are directed to pay wages to the members of the complainant union from March 2020 onwards

regularly after deducting the amount, if any paid to them for the months of March 2020 and April 2020.

5. The prayer of the complainant to declare unfair labour practice under item 10 of schedule IV of the MRTU & PULP Act, 1971 is hereby rejected.

6. Both the parties shall bear their own respective costs.”

3. The said order is challenged by the Resolution Professional appointed under the provisions of the Insolvency and Bankruptcy Code, 2016 (“IBC” for short). Limited grievance raised by the petitioner is that unless Corporate Insolvency Resolution Process is complete, the complainant/Union cannot insist on execution of the Award to the extent of its monetary consequences.

4. It is well settled that the monetary liability in relation to corporate debtor, the award or decree or any other monetary liability cannot be executed till the Resolution Plan is approved under the provisions of the IBC.

5. The petitioner, on instructions, states that the claim of complainant/Union is under process and final decision by the National Company Law Tribunal is yet to taken.

6. However, considering the scope of judicial review of order passed by the Industrial Court, it appears that the Resolution Professional is not challenging validity and legality of order passed by the Industrial Court, it is not necessary to entertain the challenge to clauses 1 to 6 of the order passed by the Industrial Court.

7. However, it is made clear that the rights of the parties to recover charges shall be subject to the decision of the Tribunal under the provisions of the IBC.

8. With this clarification, the writ petition stands disposed of. No costs.

9. Rule stands discharged in above terms.

(AMIT BORKAR, J.)