

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2277 OF 2024

M/s. Pell Tech Health Care

Pvt. Ltd. and Ors.

....**Petitioners**

**: Versus :**

Bhartiya Kamgar Sena

....**Respondent**

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**Mr. R.V. Paranjape** a/w. Mr. T.R. Yadav, *for the Petitioners.*

**Mr. Mayuresh D. Nagle**, *for the Respondent.*  
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CORAM : SANDEEP V. MARNE, J.

Dated : 29 November 2024.

P.C. :

1) The petition challenges order dated 30 March 2023 passed by the Industrial Court, Thane on Application at Exhibit-U-2 granting interim relief in favour of the Respondent-Union restraining the Petitioners from terminating the services of the four employees without following due process of law until final disposal of the complaint. The Industrial Court has further directed the Petitioners to allow the said four employees to join duties as per the settlement/agreement dated 6 November 2022.

2) I have heard Mr. Paranjape, the learned counsel appearing for the Petitioners and Mr. Nagle, the learned counsel appearing for the Respondent-Union.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Petitioners could not place before the Industrial Court letters dated 28 November 2022 addressed to the Deputy Commissioner of Labour, Police Inspector and Gram Panchayat by which the MOU dated 6 November 2022 is cancelled/withdrawn by the Petitioners on account of alleged act of the four employees in not reporting for duties between 9 November 2022 to 12 November 2022. It is further alleged in the said letter, that on 26 November 2022, the said four employees alongwith the Union leader gate crashed the company premises and shouted slogans against the Management. This is why the Petitioner has withdrawn from the MOU dated 6 November 2022 under which it had agreed to take back the terminated employees on account of intervention by the police and gram panchayat. According to Mr. Paranjape, on account of miscommunication between the Petitioners and its advocate, the letter dated 28 November 2022 could not be brought to the notice of the Industrial Court while deciding the application at Exhibit-U-2.

4) It appears that the said letters dated 28 November 2022 were sought to be placed before the Industrial Court by filing Review Application (ULP) No.3/2023. However, the Industrial Court has proceeded to reject the Review Application on the ground that it

cannot take into consideration the new material for reviewing its order.

5) While the Industrial Court cannot be said to be entirely wrong in holding that the order dated 30 March 2023 could not be reviewed on the basis of material not placed before it, at the same time, I am of the view that the letters dated 28 November 2022 can have material bearing on the issue at hand, atleast for the purpose of deciding the issue of grant of interim relief. In my view, therefore the issue of grant of interim protection needs to be reconsidered by the Industrial Court on the basis of letters dated 28 November 2022. Mr. Nagle would submit that the complaint itself is at an advanced stage where the Complainants are being cross-examined by the Management and that therefore the interim order passed 30 March 2023 be not disturbed at this belated stage. In my view, since the Industrial Court was not made aware of the exact reason why the Company walked back on the MOU dated 6 November 2022, though such material was available with the Petitioners, it would be in the interest of justice that the issue of grant of interim relief is reconsidered by taking into account the entire material produced by the parties before the Industrial Court.

6) The Writ Petition accordingly partly succeeds and I proceed to pass the following order :

(i)The order dated 30 March 2023 passed by the Industrial Court, Thane in Application at Exhibit-U2, as well as order

dated 31 August 2023 passed in Review Application (ULP) No.3/2023 are set aside.

(ii)The application filed by the Respondent-Union at Exhibit-U-2 is restored on the file of the Industrial Court, Thane, who shall proceed to decide the same afresh by taking into consideration all the material produced on record including the one produced alongwith the Review Application.

(iii)The Industrial Court shall decide the application at Exhibit-U-2 in an expeditious manner, preferably on/or before 31 August 2025.

7) With the above directions, the Writ Petition is **partly allowed and disposed of**. No costs.

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[SANDEEP V. MARNE, J.]