

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.3111 OF 2024**

Virat Kamgar Sanghatana through its
Secretary Manoj Vinayak Dalvi

...Petitioner

V/s.

Siddhivinayak Mandir Titwala and Ors.

...Respondents

Mr. Mayuresh Modgi *for the Petitioner.*

Mr. M.V. Joglekar *with Mr. Rahul D. Oak for Respondent Nos. 1 to 3.*

CORAM : SANDEEP V. MARNE, J.

Dated : 20 June 2024.

P.C. :

1) The Petitioner-Union has filed the present petition challenging series of interlocutory orders passed by the Industrial Court in Complaint (ULP) No.166 of 2022. The complaint appears to have been filed raising following prayers :-

- i. Hold and declare that the Respondents 1 to 3 have jointly and severally engaged in unfair labour practices.
- ii. Cease and desist from engaging in unfair labour practice.
- iii. Be please to direct to not alter service conditions mentioned in Annexure A and to not harass or pressurize the employees mentioned in the Annexure A to the complaint.
- iv. Be please to direct to implement the agreements dated 2006, 2009, 2012, 2015 & 2018 mentioned in Annexure A to the complaint.
- v. Be please to pay leave encashment benefits for the period 2009 to 2018 mentioned in Annexure A to the complaint.
- vi. Be please to provide identity card, base salary slip and medical facilities mentioned in Annexure A to the complaint.

MEGHA
SHREEDHAR
PARAB

Digitally signed by
MEGHA
SHREEDHAR PARAB
Date: 2024.06.26
20:12:46 +0530

- vii. Be please to direct the Respondents to enter an agreement with the Complainant Union.
- viii. Be please to direct the respondents to not terminate the services of the employees mentioned in Annexure A to the complaint.
- ix. Ad-inteirm mentioned in prayer (viii, vii, vi, v& iii)
- x. Any other prayer which deem fit & proper in the interest of justice & equity.
- xi. Cost of the Application.

2) The learned counsel appearing for the Petitioner-Union submits that complaint has subsequently been amended and prayer for payment of overtime to the members of the Petitioner-Union has been added. If that is so, the Petitioner-Union ought to have placed on record the amended complaint. Be that as it may. Initially Petitioner-Union filed application at Exh.U-2 for grant of interim relief. The prayers in the said application were as under:-

- i) Be please to direct the respondents not to terminate the services of the employees mentioned in Annexure A to the complaint.
- ii) Be please to direct to not alter service conditions mentioned in Annexure A and to not harass or pressurize the employees mentioned in Annexure A to the complaint.
- iii) Be please to pay leave encashment benefits for the period 2009 to 2018 mentioned in Annexure A to the complaint.
- iv) Be please to provide identity card, base salary slip and medical facilities mentioned in Annexure A to the complaint.
- v) Be please to direct the Respondents to enter an agreement with the Complainant Union.

3) The Industrial Court rejected the application at U-2 by a detailed order dated 15 October 2022. No challenge was raised to the said order dated 15 October 2022 for a considerable period of time. The said order dated 15 October 2022 is now sought to be challenged in the present petition filed in February-2024.

4) Apart from failure to challenge order dated 15 October 2022, the Petitioner -Union appears to have been acquiesced in the same as it filed a further application for interim orders at Exh. U-16 on 20 February 2023. In the said application, Petitioner sought interim orders to restrain the Respondents from compelling the employees to work for more than eight hours a day or forty-eight hours a week. The said application is rejected by order dated 11 September 2023, which is also subject matter of challenge in the present petition. It appears that one more application was filed by the Petitioner-Union for production of CCTV Camera footage at Exhibit-20, which is also rejected by order dated 11 September 2023.

5) This is how Petitioner -Union has filed series of applications seeking interim orders from the Industrial Court. Considering the nature of reliefs sought in the said applications, in my view the same cannot be granted at interlocutory stage. The Industrial Court has rightly rejected the said applications.

6) The learned counsel appearing for the Petitioner -Union would submit that at least the prayer for issuance of identity card, base salary slip and medical facilities ought to have been allowed by the Industrial Court. In my view, the members of the Petitioner-Union are already in service and are receiving wages. In that view of the matter, it is not necessary to consider the said prayer for issuance of identity card, base salary slip, etc.

7) The learned counsel appearing for the Petitioner -Union would submit that CCTV footage is the best evidence in possession of the Respondents, on the basis of which Petitioner -Union can prove that employees are made to

work more than eight hours a day. In my view, both the sides will have to lead evidence in respect of the allegation of Petitioner-Union about its members being forced to work for more than eight hours a day. The main relief sought in the complaint relate to non-alteration of service conditions and implementation of various agreements, payment of leave encashment, etc. The Petitioner -Union appears to have been added grievance with regard to employees being made to work for more than 8 hours a day subsequently by amending the petition. Otherwise, the main complaint is for altogether different relief.

8) In my view therefore, no serious error can be traced in the impugned orders passed by the Industrial Court. The Writ Petition being devoid of merits is rejected with no order as to costs. All the issues raised in the petition are left open to be decided by the Industrial Court while deciding the complaint filed by the Petitioner and the Industrial Court shall not be influenced by any of the observations made by this Court in the present order.

[SANDEEP V. MARNE, J.]