

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

WRIT PETITION NO.8523 OF 2024

Vulkan Technologies Private Limited

....Petitioner

V/S

Lok Kalyan Mazdoor Union

....Respondent

Mr. Varun Joshi a/w Mr. Chetan A. Alai, Ms. Rama Somani *for the
Petitioner.*

CORAM: SANDEEP V. MARNE, J.

DATE : 27 JUNE 2024.

P.C.:

1 The challenge in the present Petition is to the order dated 14 February 2024 passed by the Presiding Officer, Industrial Tribunal, Pune in Miscellaneous Application (IT) No.01 of 2021. By the impugned order the Industrial Court has set aside the Award dated 19 March 2021 in Reference (IT) No.24 of 2017 and has restored the said Reference to its original stage.

2 I have heard Mr. Joshi, the learned counsel appearing for Petitioner. His primary contention is that the provisions of Rule 26 of the Industrial Disputes (Maharashtra) Rules 1957 have been erroneously utilized for the purpose of passing of order dated 14 February 2024. That under the said provision the

Industrial Court would have restored only such proceedings which were decided ex-parte. He would submit that the Award dated 19 March 2021 cannot be treated as an ex-parte Award. He would therefore submit that there is an erroneous exercise of jurisdiction by the Industrial Court while passing the impugned order dated 14 February 2024.

3 While Mr. Joshi may not be entirely wrong in contending that the Award dated 19 March 2021 is not an ex-parte Award in strict sense, at the same time I am not inclined to interfere in the impugned order dated 14 February 2024 in the interest of justice. It appears that the Reference (IT) No.24 of 2017 was filed by the Union on behalf of all its members. It appears that the total work force with the Petitioner at the relevant time was 69. Only 33 workers resigned from the membership of the Union and desired withdrawal of the Reference (IT) No.24 of 2017. Therefore in ordinary course the Industrial Court could not have disposed of the entire Reference and ought to have passed an order of withdrawal only in respect of 33 workmen who had filed the Application Exhibit U-13 for withdrawal. In that view of the matter no serious flaw can be found in the order dated 14 February 2024 restoring the Reference. However it needs to be clarified that restoration of the Reference would not entitle the 33 workers who filed Application at Exhibit U-13 to claim any benefit or be part of the pending Reference. It is thus clarified that the restoration of Reference would be only in respect of those workers who did not resigned from membership of the Union and who were not part of the Application at Exhibit U-13. The Reference, in other

words, would be entertained only in respect of the balance workers excepting 33 workers filing Application at Exhibit-U-13. This is my view sufficiently protects the interest of the Petitioner as well.

4 With the above clarification, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)

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