

Jvs.

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

WRIT PETITION NO. 8691 OF 2024

Union of India & Ors.	}	Petitioners
versus		
Smt. Anupama Raut	}	Respondent

Ms. Vaishali Chaudhari for petitioners.

Mr. Vicky Nagrani for respondent.

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**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 26th JUNE 2024

P.C.:

- 1.** Heard Ms. Chaudhari, learned counsel representing the petitioners (UoI) and Mr. Nagrani, learned counsel representing the sole respondent.
- 2.** Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, the petition has been taken up for final disposal.
- 3.** By invoking our jurisdiction under Article 226 of the constitution of India, the petitioners, which is an autonomous board, namely, Dattopant Thengadi National Board for Workers Education and Development, has filed this petition challenging an order dated 5th January 2024 passed by Mumbai Bench of Central Administrative Tribunal (hereafter referred to as "the Tribunal"), whereby on an application preferred by the

respondent in Original Application No. 8 of 2024, an interim order has been passed staying the punishment of dismissal passed against the respondent.

4. It has been argued by learned counsel for the petitioners that as a matter of fact, such an interim order could not have been passed for the reason that it is against the well-established principle that an interim relief which is in the nature of final relief cannot be granted by any Court or Tribunal. She has also stated that the case of the petitioners was not heard and as a matter of fact, the petitioners were deprived of their right of presenting their case before the Tribunal while the order impugned in this petition was passed.

5. When asked as to whether the reply/counter affidavit before the Tribunal has been filed by the petitioners, it has been told that the petitioner have yet to file their reply to the averments made in the Original Application filed by the respondent.

6. Learned counsel for the petitioners, however, submits that an application seeking stay of the impugned order was moved and in addition, an oral prayer was made for staying the impugned interim order passed by the Tribunal, however, the said oral prayer was not acceded to by the Tribunal; instead, by means of an order dated 29th January 2024, on prayer, the Tribunal had granted eight weeks' time to file reply to the Original Application.

7. Learned counsel representing the respondent, however, disputes the fact that any application on behalf of the petitioners was filed before Tribunal seeking stay of the interim order dated

5th January 2024. He has, instead, stated before the Court that such an application was sought to be presented before the Court during the course of hearing, however, the petitioners were directed to file it in the Registry, which has yet not been filed. He has also stated that despite eight weeks' time having been granted by the Tribunal as far back as on 29th January 2024, till date, the petitioners have not even filed reply to the Original Application and accordingly, the instant petition by the petitioners approaching this Court needs to be dismissed.

8. Admittedly, the petition has been filed only against an *ex-parte* interim order. The proper course available to the petitioners would have been to file reply to the Original Application along with an application seeking vacation of the impugned order, however, since 29th January 2024 till date, the petitioners have not filed their reply before the Tribunal; instead, have approached this Court. Since the order impugned in this petition is *ex-parte* order, the Tribunal did not have the opportunity to consider the submission of the petitioners. In such a situation, it would have been appropriate for the petitioners to have apprised the Tribunal of the facts and sought vacation of the interim order.

9. Instead of approaching the Tribunal, the petitioners have directly approached this Court against an interim order, which is allegedly *ex-parte* too. Such an approach of the petitioners cannot be appreciated, however, in the interest of justice, we, without making any observation to the merit of the respective claim of the parties, dispose of the writ petition with liberty to the petitioners to file their reply to the Original Application within two weeks along with an application seeking vacation of

the interim order passed by the Tribunal, to which the respondent shall be at liberty to file rejoinder, if any, within a week thereafter.

10. Once the pleadings are complete, the Tribunal shall consider the prayer for vacation of the interim order and if it is not possible, it shall make an endeavor to hear and dispose of the Original Application finally within maximum period of two months from the date of completion of the pleadings.

11. There shall be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)