

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9759 OF 2024

Venus Rent A Car Pvt. Ltd & Anr.

... **Petitioners**

Versus

Rashtriya General Kamgar Union

... **Respondent**

Mr. Sandeep Satkar for the Petitioners.

CORAM : SANDEEP V. MARNE, J.

DATE : 15 JULY 2024.

P.C. :

1) By the present Petition, Petitioners have challenged the Judgment and Order dated 23 February 2024 passed by the Member Industrial Court, Mumbai allowing Complaint (ULP) No. 76 of 2018 filed by the Respondent. The Industrial Court has directed provision of work to the members of the Respondent-Union and also to extend them the benefit of office leave, appointment letter, benefit of provident fund and ESI scheme.

2) It appears that the Judgment and Order dated 23 February 2024 is passed *ex-parte* in absence of a written statement being filed by the Petitioners.

3) Curiously, this is not the first time that the complaint has been allowed *ex-parte*. On the earlier occasion, an *ex-parte* Judgment and Order dated 17 December 2019 was passed by the Industrial Court. Petitioner filed Restoration Application (ULP) No. 03 of 2020 in the Industrial Court, which came to be allowed by Order dated 30 August 2021. The *ex-parte* Order dated 17 December 2019 was accordingly set aside and Complaint (ULP) No. 76 of 2018 was restored subject to the imposition of costs of Rs.5,000/-.

4) Despite setting aside the earlier *ex-parte* Judgment dated 17 December 2019, it appears that Petitioner once again failed to file written statement or to oppose the Complaint in any manner. The Industrial Court was therefore left with no other alternative but to pass *ex-parte* Judgment once again on 23 February 2024 against the Petitioner.

5) The Petition was heard on 12 July 2024 and a query was raised to the learned counsel appearing for Petitioners as to why Petitioners did not file application for restoration of the complaint by seeking recall of *ex-parte* judgment dated 23 February 2024. The said query was raised in the light of the averments in the Petition which do not disclose the factum of the complaint being earlier allowed *ex-parte* on 17 December 2019 and its restoration by Order dated 30 August 2021. In short, the factum of the complaint being allowed *ex-parte* on 17 December 2019 as well as its restoration by Order dated 30 August 2021 is suppressed by the Petitioner in the present Petition.

6) It is only when the aforesaid query was traced that the learned counsel for the Petitioner has placed on record today copies of the Orders dated 17 December 2019 and 30 August 2021. It is thus clear that the Petition suffers from gross suppression of facts.

7) Apart from the conduct of the Petitioners in suppressing the facts, the Petitioner is otherwise found to be extremely negligent in prosecuting the complaint. Though the complaint was once restored by recalling the *ex-parte* judgment dated 17 December 2019, Petitioner failed to file a written statement from 30 August 2021 till the complaint was once again allowed on 23 February 2024. No explanation is forthcoming in the Petition as to why written statement was not filed after restoration of the complaint on 31 August 2021. Such explanation is lacking in the Petition obviously because the factum of earlier *ex-parte* judgment as well as restoration of the complaint is suppressed in the Petition.

8) After considering overall conspectus of the case, I am of the view that, while dismissing the Petition, costs are required to be imposed on the Petitioners for the conduct of suppression. Writ Petition is accordingly dismissed by imposing costs of Rs.25,000/- on the Petitioners. Costs shall be paid by the Petitioners to the High Court Legal Services Authority within a period of four weeks from today.

[SANDEEP V. MARNE, J.]