

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

WRIT PETITION NO.9862 OF 2024

Shri Laxminarayan Nagari Sahkari

Patsanstha Maryadit

V/S

Ketan Daulat Pevekar

....Petitioner

....Respondent

Mr. Sudhanva S. Bedekar a/w Mr. Prasanna Malshe and Mr. Ameya Malshe
for the Petitioner.

Ms. Samiksha Kanani, appointed Advocate through Legal Aid *for
Respondent.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 16 JULY 2024.**

P.C.:

1 **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for the parties, the Petition is taken up for hearing and final disposal.

2 By the present Petition, Petitioner-employer has challenged judgment and order dated 22 June 2024 passed by Member, Industrial Court No.1, Kolhapur partly allowing Revision Application filed by the Respondent-employee and setting aside order dated 21 September 2022 passed by Labour Court. The Industrial Court has directed reinstatement of the Respondent-employee with a direction to deposit his wages from 23 February 2022 with the Labour Court.

3 I have heard Mr. Bedekar, the learned counsel appearing for Petitioner and Ms. Kanani, appointed Advocate through Legal Aid appearing for Respondent-employee.

4 After having heard the submissions canvassed by the learned counsel appearing for parties, it is seen that Respondent-employee has instituted Complaint (ULP) No.37 of 2022 before Labour Court, Ratnagiri challenging his termination order. In that Complaint he filed Application at Exhibit-U2 for grant of interim order. The Labour Court rejected the said application by order dated 21 September 2022. Industrial Court has reversed order passed by the Labour Court directing the Petitioner-employer to reinstate Respondent-employee in service with any Branch other than Lote Ghanekhunt and to allot him work and pay wages regularly. The Industrial Court has further directed the Petitioner-employer to deposit wages of the Respondent-employee from 23 February 2022 with the Labour Court till his temporary reinstatement.

5 The Petitioner-employer has attempted to justify the termination of the Respondent and the Labour Court will have to examine the correctness of the said justification offered by the Petitioner-employer. It is too premature at this stage to arrive at conclusion that the termination of the Respondent is illegal for the purpose of granting interim relief of reinstatement.

6 In my view, the order passed by the Industrial Court suffers from jurisdictional error in that the relief of reinstatement is granted to the

Respondent at an interim stage when the validity of his termination is yet to be determined by the Labour Court. In the event Respondent-employee succeeds in demonstrating that his termination order is illegal, the Labour Court possesses necessary powers to grant reinstatement as well as backwages. However the relief of reinstatement cannot be granted at an interim stage when the Complaint filed by Respondent-employee is yet to be decided finally by the Labour Court. In my view, therefore the interim order granted by the Industrial Court is clearly unsustainable and liable to be set aside.

7 Writ Petition accordingly succeeds. Order dated 22 June 2024 passed by Member, Industrial Court, Kolhapur is set aside and order dated 21 September 2022 passed by the Labour Court, Ratnagiri is confirmed. Needless to observe that the Labour Court shall proceed to decide the Complaint on its own merits uninfluenced by any of the observations made in impugned order as well as in the present order. With the above directions, the Writ Petition is **allowed** and disposed of. Rule is made absolute.

Digitally
signed by
SUDARSHAN
RAJALINGAM
KATKAM
Date:
2024.07.19
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(SANDEEP V. MARNE, J.)