

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 12102 OF 2024****Shri Abhinay Balasaheb Kadam****....Petitioner****V/s.****Solapur Municipal Corporation and Ors.****....Respondents**

Mr. Kishor Jadhav i/b S. G. Kudle through V.C., for the Petitioner.**Mr. Vishwanath Patil, for the Respondent Nos.1 and 2.**

CORAM : SANDEEP V. MARNE, J.**Date : 29 AUGUST 2024.****P.C. :**

1) The challenge in the present petition is to the order dated 19 July 2024 passed by Member Industrial Court, Solapur rejecting the Revision Application (ULP) No.98 of 2023 and confirming the order dated 10 October 2023 passed by the Labour Court, Solapur on Application at Exhibit U-2.

2) I have heard Mr. Kudle the learned counsel appearing for Petitioner and Mr. Patil the learned counsel appearing for Respondent – Municipal Counsel.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that disciplinary proceedings have been initiated against the Petitioner alleging various charges. An inquiry is conducted in pursuance of the said charge sheet through Inquiry Officer. The Inquiry Officer has submitted report on 13 February 2023, in which some of the charges have been held to be proved whereas some of the charges are apparently held to be not proved. Petitioner is apparently served with copy of the Inquiry Report and is called upon to submit a

representation on the findings recorded by the Inquiry Officer. A show cause notice dated 7 July 2023 is issued for imposition of penalty against him. I do not see any reason how Labour Court or Industrial Court could have prevented the employer by way of an interim order from taking disciplinary proceeding to its logical end. It is not for Courts or Tribunals to interdict the disciplinary inquiry as the employer has inherent right to punish the employee if the charges are held to be established. The employee can always challenge the punishment imposed on him / her by instituting substantive proceedings after completion of the disciplinary proceedings. If the punishment is found to be unlawful or the inquiry is held to be in violation of principles of natural justice, the Courts / Tribunals can not only set aside the penalty but can also pass an order for award of back wages for the intervening period, depending on facts and circumstances of the case. However, an employee cannot seek to prevent the employer from taking the disciplinary proceeding to its logical end by seeking a stay on imposition of penalty.

4) In my view therefore, no serious error can be traced in the orders passed by the labour Court and the Industrial Court. Petitioner can always file a substantive proceeding, if and when any penalty is imposed upon him in pursuance of the show cause notice dated 7 July 2023.

5) The Writ Petition is accordingly rejected. All the points raised on merits with regard to the validity of disciplinary proceedings as well as correctness of penalty that may be imposed are expressly kept open to be agitated in substantive proceedings. If Petitioner is yet to file reply to Show Cause Notice, he may do so within two weeks.

[SANDEEP V. MARNE, J.]