

This order is modified as per the speaking to the minutes order
dated 10th February, 2025.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1374 OF 2025

Shailesh Ashok Kadam ... Petitioner
V/s.
President, Nipro India Corporation
Private Limited and ors. ... Respondents

WITH
WRIT PETITION NO.1375 OF 2025
AND
WRIT PETITION NO.1403 OF 2025

Mr. Rahul Gaikwad with Mr. A. Patel, Mr. Aman Jhawar, Ms. Nikita Abhyankar, Ms. Vaishnavi Mudras and Mr. Virendra Kadam i/by M/s Gravitas Legal, Advocates for the Petitioners.

Mr. Varun Joshi with Mr. Chetan A. Alai with Ms. Rama Somani and Mr. Bhushan Bhadgale i/by Mr. Chetan A. Alai, Advocates for the Respondents No.1 and 2.

CORAM : SANDEEP V. MARNE, J.

Dated : 31 January, 2025.

PC. :

1. The Petitions challenge orders dated 30th July, 2024 and 16th December, 2024 passed by Labour Court, Satara rejecting application at Exhibit U-2 preferred by the Petitioners in their complaint of unfair labour

practise. By those applications Petitioners sought interim relief of stay on the findings of the inquiry report and show cause notice proposing the penalty of dismissal/termination. The complaints of unfair labour practise filed by the Petitioners seek substantive final relief of challenge to the findings of the Inquiry Officer and the show cause notice for dismissal/termination. The order passed by the Labour Court refusing to grant interim relief has been confirmed by the Industrial Court by its order dated 16th December, 2024, which is also the subject matter of challenge in the present petitions.

2. I have heard Mr. Rahul Gaikwad, learned counsel appearing for the Petitioners and Mr. Joshi, learned counsel for the Respondents No.1 and 2-Employer. I have gone through the findings recorded by the Labour and Industrial Courts in their respective impugned orders as well as the records of the pleas alongwith petitions.

3. After this Court expressed disinclination to interfere in the impugned orders on the ground that the employer must be permitted to take the domestic inquiry to its logical end and that in jurisdiction of the Labour/Industrial Courts could not have been invoked for interdicting the inquiry proceedings before passing of final punishment order, Mr. Gaikwad, on instructions, would submit that Petitioners would be satisfied that they are granted opportunity to examine Mr. Makarand Vijaykumar Joshi as their witness in the inquiry. He has submitted that Mr. Makarand Vijaykumar Joshi has issued the charge-sheet and he appears to be the main witness, who could prove the allegations in the charge-sheet and that the management has deliberately withheld him from the inquiry possibly on

account of disinclination expressed by him to support the case. He would invite my attention to the written statement filed by Mr. Makarand Vijaykumar Joshi before the Labour Court not supporting the charges levelled against the Petitioners. He would therefore submit that examination of Mr. Makarand Vijaykumar Joshi is crucial in the present case, who apparently was witness to the incident narrated in the charge-sheet.

4. On the other hand, Mr. Joshi would submit that the inquiry proceedings are already complete as the Inquiry Officer has submitted his report on 13th January, 2024 which was forwarded to the Petitioners on 15th January, 2024. He would therefore submit that it would now be impermissible to let Petitioners examine any additional witness after closure of the inquiry. He would submit that Petitioners would have an opportunity of examining their own witness before the Labour Court while testing the issues of fairness in the inquiry and perversity in the findings. In the present case, the employer has not yet been able to impose final punishment on the Petitioners on account of interim stay granted by Labour and Industrial Courts. Therefore, though the inquiry was conducted on 13th January, 2024 with the Inquiry Officer submitting his findings, the employer has not been able to impose the punishment for the last more than one year. In the meantime, Petitioners are continued under suspension. I am therefore, of the view that no prejudice will be caused to the employer if the Petitioners are permitted to examine their witness in the inquiry in a time-bound manner. In fact grant of such opportunity to the Petitioners to examine the witness in the inquiry would obviate any allegation of denial of principles of natural justice in future. Therefore,

though ordinarily this Court would be loathe in interfering in the orders passed by the Labour and Industrial Courts, the unusual course of action of permitting the Petitioners to examine his witness is adopted in the light of unique facts and circumstances of the present case, where the employer has not passed the final punishment order despite passage of one year from date of receipt of findings of the Inquiry Officer. This shall however not be treated as a precedent in any other case.

5. With grant of opportunity to the Petitioners to examine Mr. Makarand Vijaykumar Joshi as their witness in the inquiry, the findings of the Inquiry Officer as well as the show cause notice will have to be formally set aside as the Inquiry Officer will have to record fresh findings after assessing the entire evidence on record including the deposition of Mr. Makarand Vijaykumar Joshi. In that view of the matter, the complaints filed by the Petitioners challenging findings of the Inquiry Officer and show cause notice would automatically be rendered infructuous.

6. I accordingly proceed to pass the following order :-

- i. Petitioners would be at liberty to examine Mr. Makarand Vijaykumar Joshi as their witness in the domestic inquiry initiated against them.
- ii. Petitioners shall present Mr. Makarand Vijaykumar Joshi for recording his deposition before the Inquiry Officer on 10th February, 2025 at 11.00 a.m.

- iii. The Inquiry Officer shall complete the deposition of Mr. Makarand Vijaykumar Joshi by granting the opportunity of cross-examination to the employer in an expeditious manner preferably within a period of one week.
- iv. After recording deposition of Mr. Makarand Vijaykumar Joshi, the Inquiry Officer shall thereafter submit fresh findings on or before 20th February, 2025.
- v. The Respondents No.1 and 2-employer shall accordingly act on the fresh findings of the Inquiry Officer by taking the domestic inquiry to its logical end by either dropping the same or by punishing the Petitioners.
- vi. The Labour Court, Satara shall proceed to pass formal orders of closure of complaint ULPs No.1 of 2024, 2 of 2024 and 3 of 2024.
- vii. Petitioners shall not file any fresh complaints challenging the findings of the Inquiry Officer or show cause notice, if any, issued after recording of deposition of Mr. Makarand Vijaykumar Joshi and they shall be entitled to challenge only the final order of punishment if imposed by the Respondents No.1 and 2-employer. In those proceedings, all rights and contentions of the parties are expressly kept open.
- viii. In view of the above arrangement, Petitioners shall also withdraw complaint ULPs No.88 of 2023, 5 of 2024 and 6 of 2024, filed before Industrial Court, Satara.

7. With the above directions, the Petitions are disposed of.

(SANDEEP V. MARNE, J.)