

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18062 OF 2024

NETW Kamgar Sanghatana

... Petitioner

Versus

Bosch Ltd Satpur Industrial Estate & Ors.

... Respondents

Mr. T. K. Prabhakaran *a/w Mr. Satyadev Pandey for the Petitioner.*

Mr. Chander Uday Singh, *Senior Advocate (Through V.C.) for Respondent Nos. 1 and 2.*

Mr. Kiran Bapat, *Senior Advocate i/b Mr. Rahul Oak a/w Mr. S. D. Deolalikar & A. D. Patwardhan for Respondent No.3.*

CORAM : SANDEEP V. MARNE, J.

DATE : 15 JANUARY 2025.

P.C. :

1) The Petitioner-Union has challenged order dated 30 September 2024 passed by the Industrial Court, Nashik, rejecting the application at Exhibit U-2 filed in Complaint (ULP) No. 46 of 2024. The Complaint has been instituted by the Petitioner-Union for setting up a challenge to the transfer of its members at various places across the country. In the pending Complaint, Petitioner-Union prayed for stay on the transfer orders. However, the Industrial Court has rejected the application praying for interim stay on the transfer orders by order dated 30 September 2024.

2) I have heard Mr. Prabhakaran, the learned counsel appearing for Petitioner-Union, Mr. Singh, the learned senior advocate appearing for Respondent Nos. 1 and 2 and Mr. Bapat, the learned Senior Advocate appearing for Respondent No.3.

3) After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that initially the temporary workers were sought to be prevented from entering the factory premises by issuance of Red-Light Activation Signal and such an action on the part of the Respondents-Employer became subject matter of challenge in Complaint (ULP) No. 106 of 2021. In that Complaint, interim order was passed by the Industrial Court on 3 January 2022 directing the Respondents-Employer to pay full wages to the temporary workers irrespective of the issuance of Red Light Activation Signal. The interim order passed by the Industrial Court on 3 January 2022 came to be confirmed by this Court by rejecting Writ Petition No. 1169 of 2022 and Writ Petition No. 1189 of 2022 by order dated 11 July 2022. The Respondents-Employer carried the matter further before the Apex Court and notice was issued only for the purpose of exploring a possibility of amicable settlement. During the course of mediation proceedings, it appears that the Respondents-Employer pointed out to the Apex Court that it does not have sufficient work for accommodation of all the temporary workers, who were sought to be prevented from entering the factory by issuance of Red Light Activation Signal. The Apex Court accordingly directed filing of an affidavit by the Respondents-Employer by giving details about the proposed transfers of the temporary workers concerned. Accordingly, an affidavit to that effect was in fact filed by the Respondents-Employer giving out some details about the temporary workers who were proposed to be

transferred. It appears that the settlement however did not take place and ultimately, the Supreme Court proceeded to dismiss the Special Leave Petition preferred by the Respondent-Employer by order dated 22 July 2024.

4) In my view, merely because the Supreme Court dismissed the SLP filed by Respondents-Employer, it did not preclude the Respondents-Employer from going ahead with its plans of issuing transfer orders of some of the temporary workers. It appears that accordingly, out of the total 585 affected temporary workers, who were initially sought to be prevented from entering the factory through Red Light Activation Signal, the Respondents-Employer has apparently transferred 235 temporary workers at various locations across the country vide transfer orders dated 7 September 2024. The said transfer orders are challenged by the Petitioner-Union before the Industrial Court by filing Complaint (ULP) No. 46 of 2024.

5) After having considered the submissions canvassed by the learned counsel appearing for parties, I do not find any valid reason to interfere with the order passed by the Industrial Court on 30 September 2024 refusing to grant any interim order in favour of the Petitioner-Union. The Respondent-Employer has come out with a specific case that it does not have sufficient work at its factory at Nashik for employment of all 585 temporary workers. Since a specific plea of non-availability of sufficient work is raised, it is difficult to accept the allegations of *malafides* sought to be raised by Petitioner-Union for setting up a challenge to the transfer orders. Whether sufficient work is available in the Nashik factory for employment of all 585 temporary workers is something which would be borne out by

evidence on record. However, at this juncture it is difficult to draw inference of *malafides* for interdicting the transfer orders during pendency of Complaint (ULP) No. 46 of 2024. The services of the 235 temporary workers are not terminated and they are merely transferred. Those temporary workers, who are need of employment have the option of joining the transferred places and draw wages. Considering this position, in my view, it would not be appropriate at this juncture to stay the transfer orders. Instead, the Industrial Court can be requested to expedite hearing of Complaint (ULP) No. 46 of 2024, so that the contentions raised by Petitioner-Union, about availability of sufficient work at Nashik factory and engagement of large number of contract workers and apprentices to perform work earlier performed by transferred workers, can be considered on merits.

6) I therefore do not find sufficient ground for interfering in the order dated 30 September 2024. Writ Petition thus deserves to be rejected. Ordinarily this Court would have been loathe in issuing directions for early disposal of the proceedings before the Industrial Court. However, since the issue involved in the main Compliant is about transfer, the Compliant otherwise needs to be decided in an expeditious manner, particularly when the employees are without protection of interim order. Therefore, the Industrial Court, Nashik is requested to expedite hearing of the Complaint (ULP) No. 46 of 2024 by making an endeavour to decide the same as expeditiously as possible preferably within a period of four months. Both the sides to render necessary assistance to the Industrial Court for expeditious decision of the complaint. While deciding the complaint finally, the Industrial Court shall not be influenced by any of the observations made in the interim order dated 30 September 2024 or by any

observations made by this Court in the present order. During pendency of the Complaint (ULP) No. 46 of 2024 the interim order granted by this Court on 12 December 2024 shall continue to operate.

7) With the above directions, Writ Petition is **disposed of**.

[SANDEEP V. MARNE, J.]