

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9361 OF 2025

D. B. Corp. Ltd. ... Petitioner
Vs.
Dharmendra Pratap Singh ... Respondent

Mr. Avinash Jalisatgi a/w. Mr. Vishwabhusan Kamble, Mr. Mulanshu Vora and
Ms. Vishakha Chokhani i/b. Jaykar & Partners for Petitioner.

Mr. Vinod Sanjiv Shetty for Respondent.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 23, 2025

P.C. :

1. The petitioner i.e. the employer has filed the present writ petition being partly aggrieved by award (Part I) dated 04.04.2025 passed by the First Labour Court at Mumbai in reference proceedings. While the petitioner has no grievance about clause (1) of the operative portion of the award, whereby it has been declared that the enquiry conducted by the enquiry officer was fair and proper, the petitioner is seriously aggrieved by clause (2) of the operative order, which has declared that the findings of the enquiry officer are perverse.

2. On the other hand, the respondent i.e. the employee supports the aforesaid conclusion of the Labour Court, declaring that the findings of the enquiry officer are perverse. Additionally, it is claimed that since the petitioner would have an opportunity to rely on additional material during proceedings pertaining to Part II of the award, no prejudice is caused to the petitioner and this writ petition ought not to be entertained in the light of the settled position of law.

3. In the present case, the respondent being an employee i.e.

Principal Correspondent of the petitioner, which *inter alia*, publishes the daily *Dainik Bhaskar*, was proceeded against in an enquiry on certain charges. The petitioner as well as the respondent produced witnesses in support of their respective stands before the enquiry officer and eventually, the report dated 11.09.2019 of the enquiry officer concluded that the charges were proved against the respondent. On this basis, the services of the respondent were terminated by order dated 24.09.2019.

4. In this context, the reference arose before the Labour Court in which the impugned award (Part I) dated 04.04.2025 was passed in the aforesaid manner, holding against the petitioner, to the extent that the findings of the enquiry officer were declared to be perverse.

5. Mr. Avinash Jalisatgi, learned counsel appearing for the petitioner submitted that even if the law laid down by the Supreme Court in the cases of *Cooper Engineering Limited Vs. P. P. Mundhe*, **1975 (2) SCC 661** as also *F T and R Co. of India (P) Ltd. Vs. Its Workmen Employees Union*, **1981 (3) SCC 451** is taken into consideration, in the light of the position of law clarified by the learned Single Judge of this Court in the case of *Mahindra and Mahindra Vs. Suryabhan Avhad*, **2007 (6) Mh.L.J. 436**, confirmed by the Division Bench of this Court in the case of *Suryabhan Maruti Avhad Vs. Mahindra and Mahindra Limited*, **2010 SCC OnLine Bom 2246**, the Writ Court can exercise jurisdiction to consider the correctness or otherwise of award (Part I) and there cannot be a blanket bar on the exercise of writ jurisdiction in such cases. The said position of law was recently reiterated by a learned Single Judge of this Court in the case of *Jayashree Electron Pvt. Ltd. Vs. Prashant Ranu Gaware*, **2024 SCC OnLine Bom 2706**. The scope of jurisdiction available to a Writ Court was further clarified and the petitioner specifically relied upon the said judgement also. It was submitted that as per the said position of law, although this Court may be reluctant to

interfere at such preliminary stage, if the findings rendered by the Labour Court are demonstrated to be completely vitiated and perverse, writ jurisdiction can be exercised to interfere with the same.

6. It was submitted that in the instant case, such perversity in the impugned award (Part I) of the Labour Court can be demonstrated, and hence, the instant writ petition deserves to be allowed. It was further submitted that applying the test of finding out perversity as laid down by the Supreme Court in the case of *Kuldeep Singh Vs. Commissioner of Police and others*, (1999) 2 SCC 10 and *State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya*, (2011) 4 SCC 584, it can be demonstrated, in the present case, that the conclusions and findings rendered by the Labour Court are perverse as they are not based on evidence adduced by the parties and no reasonable person could have reached the findings on the basis of such evidence. It was submitted that, in the present case, the Labour Court acted as an appellate Court and re-assessed the evidence led in the domestic enquiry, thereby demonstrating a wholly erroneous approach deserving interference at the hands of this Court.

7. In this context, attention of this Court was invited to the impugned award (Part I) of the Labour Court to submit that discussion, regarding the conclusion that findings of the enquiry officer were perverse, is found only in paragraphs 46 to 48. The Labour Court has merely referred to the witnesses of the petitioner, and thereupon, directly reached a conclusion that the enquiry officer failed to apply the settled position of law that it was for the petitioner, as the management, to establish all charges against the respondent employee. Although it was recorded that some of the conclusions of the enquiry officer were supported by evidence, but holding the respondent guilty of all the charges was a perverse conclusion reached by the enquiry officer. It was

submitted that the Labour Court failed to apply the test of perversity as laid down by the Supreme Court in the aforementioned judgements and hence, the impugned award (Part I), to the extent that it declares the findings of the enquiry officer to be perverse, deserves to be set aside.

8. In this regard, attention of this Court was invited to the charge-sheet, levelling serious charges against the respondent. A reference was also made to the evidence of the three witnesses of the petitioner. It was submitted that the enquiry officer took into consideration the evidence of all the three witnesses of the management, including their responses in cross-examination, to conclude that the charges had been proved. Reference was also made to the report of non-cognizable offence (N.C. Report) lodged by the Legal Head of the petitioner, demonstrating the extent to which the respondent had misbehaved and indulged in insubordination. It was submitted that the charges were all proved to the hilt and since the respondent himself in his reply to the questions, put during evidence, had conceded that he had understood all the charges, there was no substance in the contention of the respondent that the charges were vague and without any particulars.

9. It was further submitted that the claim of the respondent that he had lodged a police complaint with regard to a particular incident dated 12.02.2018 can be said to be an afterthought because no reference regarding the same was made in his written statement or even at the stage of recording of his evidence. As regards the allegation that the N.C. Report lodged at the behest of the said Legal Head of the petitioner was suspicious as it was dated 10.02.2018, purportedly pertaining to the incident of 12.02.2018, reference was made to the evidence on record and the finding given by the enquiry officer that the date was erroneously recorded in the N.C. Report and that subsequently, it was corrected on a representation made on behalf of the petitioner.

10. On this basis, it was submitted that perversity was writ large in the impugned award (Part I) as such cogent evidence was ignored while reaching conclusions against the report of the enquiry officer. On this basis, it was submitted that the writ petition deserved to be allowed and clause 2 of the operative portion of the award (Part I) deserved to be quashed.

11. On the other hand, Mr. Vinod Shetty, learned counsel appearing for the respondent submitted that the Labour Court in the impugned award (Part I) correctly found that the findings rendered by the Enquiry Officer were perverse and that the evidence on record did not conclusively prove the charges levelled against the respondent.

12. It was submitted that as the petitioner clearly has an opportunity to place additional material before the Labour Court during proceedings pertaining to Part II of the award, as per the settled law laid down by the Supreme Court in the case of **Cooper Engineering Limited Vs. P. P. Mundhe** (*supra*), this Court ought not to entertain the writ petition at such a preliminary stage. Reliance was also placed on judgement of the Supreme Court in the case of *Dena Bank Vs. D. V. Kundadia*, **2011 (15) SCC 690**, to contend that since it would always be open for the petitioner to raise issues after the final award is passed, the writ petition ought to be thrown out at the threshold.

13. Without prejudice to the aforesaid contention, it was submitted that even if the law laid down by this Court in the cases of **Mahindra and Mahindra Vs. Suryabhan Avhad** (*supra*) and **Suryabhan Maruti Avhad Vs. Mahindra and Mahindra Limited** (*supra*) and the recent judgement in the case of **Jayashree Electron Pvt. Ltd. Vs. Prashant Ranu Gaware** (*supra*) is to be taken into consideration, a very narrow scope is available in writ jurisdiction for this Court to entertain such a petition. It was submitted that the petitioner is required to demonstrate

that the conclusions of the Labour Court, in the present case, were vitiated and perverse to such an extent that jurisdiction could be exercised in the aforesaid narrow scope for interfering with the same.

14. It was submitted that even if the test of perversity, as laid down by the Supreme Court in the cases of **Kuldeep Singh Vs. Commissioner of Police and others** (*supra*) and **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya** (*supra*), was to be applied to the facts of the present case, the petitioner cannot claim any relief in the present petition.

15. In this context, reference was made to the evidence led by the three witnesses of the petitioner as well as the two defence witnesses of the respondent. It was submitted that the entire evidence upon which the petitioner placed reliance was absolutely weak and certainly did not prove the charges levelled against the respondent.

16. It was submitted that in the first place, charges levelled against the respondent were vague and without any particulars except two charges, one pertaining to the alleged refusal of the respondent to attend the training programme at Bhagalpur and the other, pertaining to the alleged incident dated 12.02.2018. In respect of vague charges, the three witnesses of the petitioner could not give any particulars and general responses demonstrating their ignorance were brought on record and even with regard to the aforesaid two specific charges, the material on record belied the claims of the petitioner. It was submitted that the main person, who claimed to have grievance with regard to the alleged incident dated 12.02.2018 i.e. the Legal Head of the petitioner, never deposed before the enquiry officer although he had lodged the NC Report with regard to the said alleged incident. The NC Report itself was rendered suspicious as it was lodged on 10.02.2018 with regard to an alleged incident that took place two days later i.e. on 12.02.2018. It was

submitted that such obvious and glaring lacunae were overlooked by the enquiry officer while rendering findings against the respondent.

17. In such a scenario, the Labour Court in the impugned award (Part I) correctly came to the conclusion that the findings rendered by the Labour Court were perverse. It was submitted that the petitioner was harassing and victimizing the respondent and this was evident from its earlier actions, including issuing a transfer order, that was ultimately stayed by the Competent Court. On this basis, it was submitted that the writ petition deserves to be dismissed, particularly when no prejudice is caused to the petitioner and it has sufficient opportunity during Part II proceedings to place additional material on record to prove its case against the respondent.

18. Having heard the learned counsel for the parties and in the light of the law laid down by the judgements of the Supreme Court in the cases of **Cooper Engineering Limited Vs. P. P. Mundhe** (*supra*) and **F T and R Co. of India (P) Ltd. Vs. Its Workmen Employees Union** (*supra*), reference proceedings, concerning the question of termination of service of a workman, are conducted in two parts; the initial part concerning the preliminary issues with regard to the questions as to whether the domestic enquiry was conducted in a fair and proper manner and as to whether the findings rendered by the enquiry officer were perverse. If the Labour Court, considering the reference proceedings, answers the aforesaid two issues in favour of the employer, the matter can proceed to the second part, concerning the penalty imposed upon the workman.

19. In the case of **Cooper Engineering Limited Vs. P. P. Mundhe** (*supra*), the Supreme Court held that if the Court renders findings against the employer on either of the two issues concerning Part I of the proceedings or on both issues, the employer in Part II proceedings has an

opportunity to lead additional evidence in order to justify the charges levelled against the workmen in the charge-sheet, in order to prove the same. In other words, the employer is given a further opportunity to justify its charge-sheet and consequent penalty imposed upon the workman. The two-tier process has been recognized in the aforesaid judgement, and thereafter, followed in various judgements, including judgement in the case of **F T and R Co. of India (P) Ltd. Vs. Its Workmen Employees Union** (*supra*). In the case of **Dena Bank Vs. D. V. Kundadia** (*supra*), the Supreme Court found that the High Court in the said case correctly rejected the writ petition, for the reason that the grievance sought to be raised after Part I of the proceedings, could still be raised after completion of the second part of the proceedings and upon pronouncement of the final award.

20. On the basis of the said position of law, it was vehemently submitted on behalf of the respondent employee, in the present case, that this Court ought not to entertain the present writ petition at all. But, the judgements of the learned Single Judge of this Court in the cases of **Mahindra and Mahindra Vs. Suryabhan Avhad** (*supra*), **Jayashree Electron Pvt. Ltd. Vs. Prashant Ranu Gaware** (*supra*) and that of the Division Bench in the case of **Suryabhan Maruti Avhad Vs. Mahindra and Mahindra Limited** (*supra*), clearly carve out an exception and it is laid down that in such exceptional circumstances, this Court can entertain the writ petition against award concerning Part I or preliminary issues and in a given case, also allow the same.

21. In the case of **Mahindra and Mahindra Vs. Suryabhan Avhad** (*supra*), the learned Single Judge of this Court held as follows:-

“70. The decisions relied upon by Ms. Gayatri Singh have also been perused by me. There cannot be any dispute with regard to the propositions laid down in the case of the Workmen of Fire Stone Works v. Management which have been followed in the case of Neeta Kalpish v. Presiding Officer, Labour Court and

Anr. However, as observed in the case of *Cooper Engineering Ltd v. P.P. Munde* reported in (1975) (31) FLR page 188, if the findings on the preliminary issue are worthy of acceptance, then the principles would apply. However, if they are vitiated and are perverse in the manner set out above, then, they cannot be upheld. The other decisions relied upon by her are also distinguishable on facts. It is not a case where the evidence was not legally acceptable or hearsay and purely conjectures. This is a case where legal evidence has been discarded and that is not permissible.

71. Further, almost all objections of the Workmen have been turned down by the Labour Court. In addition, there are findings recorded at the interlocutory stage that no case is made out of unfair labour practice under the subject items. The Labour Courts observations and findings, so also remarks have been expunged by the Industrial Court. In such circumstances, Ms.Singh cannot rely upon them. More so, when no cross petition is filed.

72. In the above circumstances, I am unable to agree with Ms.Singh, appearing for the Respondent, that this is not a fit case for exercising writ jurisdiction of this Court. Normally, this Court is reluctant to interfere at a preliminary stage. However, when illegality and perversity of the above nature is noticed and seen, when the Courts below do not perform their duty in accordance with law, so also, when exercise of powers vested in them results in miscarriage of justice, then it is the duty of this Court to interfere in the writ jurisdiction. I am unable to agree with any of the contentions of Ms.Singh and I am in agreement with those of the petitioner that the impugned judgments need to be quashed and set aside.”

22. In the challenge raised to the said judgement of the learned Single Judge of this Court, a Division Bench in the case of **Suryabhan Maruti Avhad Vs. Mahindra and Mahindra Limited** (*supra*), while affirming the view, held as follows:-

“17. In the circumstances the learned single Judge held that once the Industrial Court was satisfied that the adverse remarks were wholly unjustified, it ought to have allowed the Revision Application. By not doing so, it failed in its duty as Revisional Court. We are entirely in agreement with the view expressed by the learned single Judge. Another ground of challenge to the impugned judgment and order is that the learned single Judge

ought to have refused to entertain the writ petition at the interim stage since both the parties were entitled to challenge the validity of the final order passed by the Labour Court on all grounds. In answer to this ground, we need to only quote the observations of the learned single Judge at paragraph 72 with which we entirely agree.

“72.... Normally, this Court is reluctant to interfere at a preliminary stage. However, when illegality and perversity of the above nature is noticed and seen, when the Courts below do not perform their duty in accordance with law, so also, when exercise of powers vested in them results in miscarriage of justice, then it is the duty of this Court to interfere in the writ jurisdiction.”

23. In the recent judgement in the case of **Jayashree Electron Pvt. Ltd. Vs. Prashant Ranu Gaware** (*supra*), the learned Single Judge of this Court followed the said view, and while allowing the writ petitions, held as follows:-

“12. Considering the above judgment, in my view, it is not possible to accept an absolute proposition that under no circumstances, High Court can entertain Petition under Article 226 or 227 of the Constitution of India, where a Part -I Award on preliminary issues is challenged. In fact, so far as the preliminary issues relating to fairness in the enquiry and perversity in the findings of the Enquiry Officer are concerned, the findings recorded by the Labour Court in Part-I Award has attained finality. While delivering Part -II Award, the Labour Court will have to examine only correctness of the penalty. Since the findings on preliminary issues have attained finality, I do not see any reason why the aggrieved party cannot be permitted to challenge Part -I Award. In many cases, it takes substantial period of time for the Labour Court to answer preliminary points about fairness in Inquiry and perversity in the findings of the Inquiry Officer. True it is that if the Inquiry is not held to be fair and or if the findings of the Inquiry Officer are held to be perverse, the employer gets a second opportunity to prove the charges by leading evidence before the Labour Court. However in many cases, on account of passage of substantial period of time, it becomes difficult for the employer to once again lead evidence, which was produced before the Inquiry Officer in support of the charges. This position is taken note of by Division Bench of this Court in Hindustan Unilever Ltd. (*supra*). In the present case as well, the concerned witnesses have been examined in the year 2017 and by now period of 7 long years has

elapsed. The witness- Unnikrishnan Nair is not the part of the establishment of the Petitioner and was merely working as Contractor at the relevant time. Therefore, on account of passage of 7 long years from the date on which his evidence was recorded, it becomes highly doubtful as to whether Petitioner would be in a position to secure his attendance for the purpose of examining him before the Labour Court. In my view therefore, challenge to Part -I Award cannot be rejected only on the ground that Petitioner can always question the findings in Part -I Award while challenging the Part- 2 Award as well. It must also be noted that in the event the employer's inability to lead evidence before the Labour Court on account of passage of time, and if on that count, the termination order is set aside, while challenging Part -II Award, employer can be made liable to pay wages under Section 17-B of the Industrial Disputes Act, 1947 (ID Act). Therefore, right of the employer to question the findings recorded in Part I Award by filing the petition challenging Part-II Award is not without consequences. In my view therefore, inherent jurisdiction of this Court to determine validity of Part -I Award during pendency of Reference before the Labour Court is not circumscribed only on account of the fact that the employer can always maintain a challenge to Part -I Award subsequently while challenging Part -2 Award. Preliminary objection raised by Mr. Kshirsagar to maintainability of the Petition is accordingly rejected.”

24. Thus, it is evident that although the Writ Court would be slow and reluctant in entertaining a writ petition against the award concerning Part I of the proceedings pertaining to preliminary issues, there cannot be an absolute bar for entertaining writ petitions in such situations. The position of law clarified in the aforementioned judgements of this Court clearly indicates that while considering a writ petition challenging Part I award, concerning preliminary issues, a very narrow window is available and that the petitioner is required to satisfy a high threshold to justify such a challenge to the Part I award. The petitioner is required to demonstrate that the conclusions and findings rendered by the Court in the Part I award are so perverse and unsustainable that they cannot be upheld under any circumstances. Such a high threshold is required to be satisfied by the petitioner, for the reason that the petitioner always has an

opportunity, as the employer, to lead additional evidence before the Court in Part II of the reference proceedings in order to justify its charge-sheet and consequential order imposing penalty on the workman / employee. It is also given an opportunity to challenge the findings on all scores after the final award is rendered. Therefore, it is evident that, in the present case also, the petitioner is required to satisfy the aforesaid high threshold to convince this Court for setting aside the second conclusion in the impugned award (Part I) to the effect that the findings rendered by the enquiry officer were perverse. According to the petitioner, the enquiry officer had dealt with each and every aspect of the matter in the light of the charge-sheet and after considering the oral and documentary evidence, reached cogent conclusions.

25. The learned counsel appearing for the petitioner relied upon judgements of the Supreme Court in the cases of **Kuldeep Singh Vs. Commissioner of Police and others** (*supra*) and **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya** (*supra*). A perusal of the said judgements shows that findings rendered in a domestic enquiry could be said to be perverse in three contingencies. Firstly, that the findings were not supported by any evidence on record; secondly, that such findings were not based on the evidence adduced by the parties; and thirdly, that no reasonable person could have rendered the said findings on the basis of the evidence on record. It was also laid down that if there is some evidence on record, which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings did not deserve interference.

26. This line of reasoning was further elaborated in the case of **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya** (*supra*) by laying down that the Courts shall not act as appellate Court and reassess

the evidence led in the domestic enquiry and that the test to determine perversity was to see whether a domestic tribunal, acting reasonably could have arrived at such conclusions or findings, on the basis of the material on record. According to the petitioner, applying the said tests of perversity and the approach to be adopted by the Courts, in the present case, since there was ample evidence on record, which had been adverted to and discussed before rendering findings, it could never have been held that the findings of the enquiry officer were perverse. This is disputed by the respondent, and in that light, both sides have referred to and relied upon the oral and documentary evidence considered by the enquiry officer in the domestic enquiry. Therefore, in order to consider the rival submissions, it would be necessary to refer to the evidence and material on record.

27. A perusal of the charge-sheet shows that, as many as 9 charges were levelled against the respondent, which included insubordination, defaming the company, rude behaviour and using abusive language against one Mr. Sachin Gupta, who was the Legal Head of the company. Two charges specifically referred to dates i.e. 16.10.2017, when the respondent refused to abide by the direction of the company to attend a skill development program at Bhagalpur and 12.02.2018, when the respondent allegedly abused the said Legal Head of the company, resulting in registration of an N.C. Report with the police station against the respondent under Sections 504 and 506 of the Indian Penal Code, 1860 (IPC). All the other charges do allege acts of disobedience and insubordination on the part of the respondent but there are no specific dates stated therein. To that extent, the respondent appears to be justified in contending that other than the aforementioned two charges pertaining to specific dates of 16.10.2017 and 12.02.2018, none of the charges specified the dates of the misdemeanours alleged against the respondent.

28. This Court is not impressed with the contention raised on behalf of the petitioner that since the respondent in his reply to the show cause notice and the charge-sheet had stated that he had understood the charges, he could not turn around to claim that most of the charges were vague. The respondent cannot be faulted in pointing out that 7 of the 9 charges did not refer to any dates, much less any specific time of the acts alleged against the respondent.

29. The Labour Court, in the impugned judgement and order, came to the conclusion that the findings rendered by the enquiry officer were perverse and in that process, it referred to the approach adopted by the enquiry officer, particularly in the context of the evidence of the three witnesses relied upon by the petitioner. It was also noted that the allegation of defaming the company by posting certain messages in *WhatsApp* group was not sustainable, for the reason that even according to the witnesses of the petitioner, such posts were allegedly made by the respondent after the charge-sheet was already issued. It is in this context that the evidence of the witnesses of the petitioner was perused.

30. One of the glaring charges levelled against the respondent pertained to the alleged incident dated 12.02.2018, when the respondent was said to have used abusive language against the Legal Head of the company, prompting the said person to cause an N.C. Report to be registered against the respondent for offences under Sections 504 and 506 of the IPC. But, it is surprising that the said Legal Head of the company was not examined as a witness by the petitioner in the enquiry. He was the person raising grievance about abusive behaviour of the respondent to the extent that he had to approach the police, but he never appeared as a witness in the enquiry. Instead, Akshatha Karangutkar, Assistant General Manager (Human Resources), appeared as a witness, who claimed that the said incident dated 12.02.2018 had occurred in her

presence.

31. It is also a matter of record that the N.C. Report itself shows that it was registered on 10.02.2018. It is relevant to note that the aforesaid date is recorded in the top right corner of the N.C. Report at Vikhroli Police Station. Even in the body of the details of the grievance recorded in the NC Report, it is specifically stated that the alleged incident took place on 10.02.2018 at 2:30 p.m. At the bottom of the N.C. Report, there is a signature of the said Legal Head of the company and under his signature, the date '12.02.2018' is recorded; but, it pertains to the column of copy of the N.C. Report being handed over to the complainant.

32. This aspect did come up for consideration before the enquiry officer, and it was casually explained away by stating that the date in the N.C. Report was an error but the said error was subsequently corrected. Neither the said Legal Head of the company, who was the complainant, was examined in the enquiry nor was any other person, who could have corrected the NC Report, was examined by the petitioner. In this context, the respondent is justified in stating that one of the two charges where date of the incident, was specified, was clearly under a cloud of suspicion and doubt because the incident was alleged to have taken place on 12.02.2018 in the evening while, the N.C. Report specifically records the incident as having been taken place on 10.02.2018 itself at 2:30 p.m. This indeed is a glaring instance of perversity.

33. Apart from this, a perusal of the evidence of the petitioner's other two witnesses viz. Shubha Shah, Editor and Prajyoti Randive, Assistant Manager (HR & Admin) shows that they have responded to questions put to them on the charges recorded in the charge-sheet, in a manner, indicating ignorance and in any case, lack of specificity. These two witnesses have also conceded to the fact that none of the alleged

WhatsApp messages, defaming the company, were available for the relevant period and those, that were being relied upon, pertained to the period after the issuance of the charge-sheet. When specific questions were put about the dates when the respondent allegedly abruptly walked out of the meetings or that he behaved in a rude manner, these two witnesses could not give any details. The said witnesses stated that they did not remember the number of times, the respondent had walked out of meetings or whether he used to come late, considering office timings. In fact, the office timings were not specified in the responses at all. These two witnesses were hearsay witnesses for the alleged incident of 12.02.2018 and they heavily relied upon the third witness i.e. Akshatha Karangutkar, Assistant General Manager (Human Resources) of the Company. Therefore, the main witness appeared to be the said AGM (HR) of the company.

34. Before adverting to the evidence of the said witness, it is to be noted that she was the person, as AGM (HR), who issued the charge-sheet and signed the same. She appointed the enquiry officer to conduct the enquiry, and she herself appeared before the enquiry officer to justify the charges. Even this witness could not give any specific details about the charges pertaining to the respondent such as not attending meetings, walking out of meetings abruptly, using abusive language with fellow employees and indulging in acts of insubordination. General responses were given. But, specific instances could not be placed in the evidence before the enquiry officer.

35. As regards the alleged act of insubordination of the respondent in refusing to attend the skill development programme as per the direction issued on 16.10.2017, this witness specifically stated that, when such a direction was given, the respondent flatly refused. In the evidence and material on record on this aspect of the matter, it is found that the

respondent, having worked as a Principal Correspondent for many years, stated that he was not required to go for a training session of 7 days. In the backdrop of the said response was the past action of the petitioner in transferring the respondent to Sikar in Rajasthan, which transfer order was stayed by the Court. It has been the stand of the respondent throughout that since he was insisting on relief for himself and others on the basis of the Majithia Award, he was being harassed and victimized and that the institution of the enquiry proceedings was also a manifestation of such victimization.

36. As regards the alleged incident of 12.02.2018, this Court has already noted hereinabove that the main protagonist i.e. the Legal Head of the company was not before the enquiry officer as a witness and only the aforesaid third witness Akshatha Karangutkar, AGM (HR) deposed about the said incident, claiming that it took place in her presence. But, it is found that the wind is taken out of the said serious allegation in the light of reference to the N.C. Report for offences under Sections 504 and 506 of the IPC, which itself is found to be dated 10.02.2018, while the enquiry proceeded on the basis that the incident took place on 12.02.2018. This Court, at this stage, is not even referring to the assertion made by the respondent that he himself had approached the police on 12.02.2018, submitting a complaint that in the light of the interaction with the Legal Head of the company, there was a likelihood of the respondent being falsely implicated and that this had occurred in the backdrop of the respondent pressing for relief for the employees under the Majithia Award.

37. Even if the said police complaint submitted by the respondent is to be ignored for a moment, the serious suspicion created over the N.C. Report, launched at the behest of the Legal Head of the company, demonstrates that the enquiry officer chose to proceed against the

respondent by accepting the statements made by the witnesses of the petitioner as gospel truth. This included the aforesaid explanation that the date on the N.C. Report was subsequently corrected. As to what procedure in law could be adopted to correct a document recorded and registered by the police, was not put forth on behalf of the petitioner.

38. It is in this backdrop that the Labour Court, in the impugned award (Part I) concluded that the findings rendered by the enquiry officer were perverse. If the tests of perversity, as noted hereinabove, are applied, it can be said that the enquiry officer failed to appreciate that the evidence of the witnesses of the petitioner failed woefully short of bringing home the charges regarding insubordination, walking out of meetings and rude behaviour, particularly the incident dated 12.02.2018. It cannot be said that the Labour Court, in the present case, committed such a glaring error in holding against the petitioner with regard to perversity of findings of the enquiry officer, that this Court, while exercising writ jurisdiction, can entertain and allow the present writ petition within the narrow scope available. It also cannot be said that the high threshold required to be satisfied by the petitioner, justifying interference by the Writ Court, has been demonstrated and proved.

39. Merely because the Labour Court reached its findings in three paragraphs, it cannot be said that interference in the impugned award is warranted. In fact, the Labour Court did take into consideration the evidence of the witnesses and found that the witnesses of the petitioner were unable to support the charges and also specifically found that the alleged defamatory messages put in the *WhatsApp* group by the respondent, pertained to a period after the charge-sheet had been issued. Thus, the Labour Court reached findings and conclusions by appreciating the material and evidence on record. It cannot be said that the petitioner has been able to make out its case within the narrow scope

available as per the law laid down by this Court in the case of **Mahindra and Mahindra Vs. Suryabhan Avhad** (*supra*) and followed subsequently.

40. As noted hereinabove, as per settled law laid down by the Supreme Court in the cases of **Cooper Engineering Limited Vs. P. P. Mundhe** (*supra*); **F T and R Co. of India (P) Ltd. Vs. Its Workmen Employees Union** (*supra*) and **Dena Bank Vs. D. V. Kundadia** (*supra*), the petitioner, as the employer / management, still has an opportunity in Part II proceedings to lead additional evidence in order to justify the charge-sheet and the order of termination of services of the respondent. Therefore, it is found that the petitioner cannot successfully invoke writ jurisdiction in the facts and circumstances of the present case in order to upset the conclusion rendered in the impugned award (Part I) that the findings given by the enquiry officer are perverse.

41. In view of the above, the writ petition is dismissed. Pending interim applications, if any, also stand disposed of.

(MANISH PITALE, J.)

Minal Parab