

MANU/MH/0256/1995

Equivalent Citation: [1995(71)FLR966], (1997)IIILLJ729Bom

IN THE HIGH COURT OF BOMBAY

W.P. No. 3022/1995

Decided On: 10.07.1995

Appellants:**Bombay Bolts and Nuts Merchants Association**
Vs.

Respondent: **B.S. Bhadanga. and others**

Hon'ble Judges/Coram:

R.G. Vaidyanatha, J.

Counsel:

For Appellant/Petitioner/Plaintiff: C.J. Sawant, Viswajit Sawant, S.C. Naidu, Y.G. Naidu and M.M. Gujar, Advs.

For Respondents/Defendant: K.K. Singhvi and Ms. Pushpa Memon, Advs.

Case Note:

Labour and Industrial - Grant of ad-interim ex-parte - Ad-interim ex-parte order granted by Trial Court - Hence, present writ petition filed - Held, Trial Court should be directed to expedite the hearing of the application and dispose of the same without being influenced by any of the observations made in order and till that time the ad-interim order which was now granted should be kept in abeyance - However, one clause in ad-interim order refers that Petitioner and its members should not indulge in any act of force or violence and in my view there was no necessity to stay this particular clause - Writ petition disposed of.

JUDGMENT

1. This is a writ petition directed against the order dated June 28, 1995 at Ex. U-11 in Complaint (ULP) No. 610 of 1995. Rule returnable forthwith. Heard Counsel for both the sides. The petition is being disposed of at the admission stage.

2. The second respondent-Complainant filed a complaint in the Industrial Court, Maharashtra at Bombay alleging unfair labour practice on the part of the petitioner. The trial Court granted an ad-interim order. Subsequently, the trial Court extended the ad-interim order by the impugned order. Being aggrieved by that order, the petitioner has come up with this writ petition.

3. It was urged on behalf of the petitioner that the complaint itself was not maintainable and the Industrial Court had no jurisdiction to proceed with the matter and that the trial Court should not have extended the ad-interim ex-parte order. On the other hand, the learned Counsel for the second respondent has supported the impugned order and says that there is no justification for invoking the writ jurisdiction of this Court.

4. The complaint is filed by the Union against the Steel Chambers of India and its members. But the notice has gone only to the Steel Chambers of India. The ad-

interim order, however, is that the petitioner and its members are directed not to give any work to any contractor which is being done by the existing workmen, that the petitioner and its members should not recruit any employee and not to assign any work to outsider during the strike period and that the petitioner and its members should not indulge in any act of force or violence.

The trial Court earlier granted ad-interim order and subsequently extended the same.

5 . A perusal of the impugned order shows that serious questions about maintainability and jurisdiction of Industrial Court were raised before the learned Court and the learned Counsel for the petitioner was ready to argue the matter, but since the Court had no time, it adjourned the matter and continued the ex-parte ad-interim order. In fact, the trial Court has observed in para 7 of the impugned order that submissions made on behalf of the petitioner require much consideration and important questions of law arise for consideration.

6. But the blanket order passed by the trial Court that the petitioner and its members should not engage any contractor and should not recruit any employee is a very Draconian order which cannot be sustained in the peculiar facts and circumstances of the case. I am told that there are 3,000 members belonging to the petitioner association and the order is passed only against the association viz. the Steel Chambers of India. Hence, in the circumstances, the trial Court was not justified in passing such an order without considering the rival contentions on merits of the matter. I feel that the Trial Court should be directed to expedite the hearing of the application and dispose of the same without being influenced by any of the observations made in this order and till that time the ad-interim order which is now granted should be kept in abeyance. However, one clause in the ad-interim order refers that the petitioner and its members should not indulge in any act of force or violence and in my view there is no necessity to stay this particular clause.

7 . In the result, the writ petition is disposed of at the admission stage with a direction to the Industrial Court to expedite hearing of the application filed by the parties, hear the parties on merits and dispose of the same without being influenced by any of the observations made in this as order, preferably within two weeks from today. Clauses (i) and (ii) of the ad-interim order dated June 20, 1995 are hereby kept in abeyance till the disposal of the application on merits.

8. At this stage, the learned Counsel for the second respondent wants to withdraw complainant's undertaking which is noted in para 8 of the impugned order and also in the last para of the impugned order which is shown as further order below Ex. U-11 and the said statement is recorded.

Send a copy of this order to the trial Court forthwith. Writ to go down immediately.

9. C.C. expedited.

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