

MANU/MH/0449/1994

**IN THE HIGH COURT OF BOMBAY**

Writ Petition No. 890 of 1994

Decided On: 28.04.1994

Appellants: **Sarva Shramik Sangh**  
**Vs.**

Respondent: **Swan Mills Ltd & others**

**Hon'ble Judges/Coram:**

*D.R. Dhanuka, J.*

**Case Note:**

**Labour and Industrial - Grant of relief - Whether interim reliefs sought for could be granted by the Industrial Court or whether the Petitioners must await the hearing and final disposal of complaint - Held, after taking an overall view of the matter, it was concluded that no interim relief could have been granted by the Industrial Court to the Petitioners on any view of the matter - Petitioners' complaint was to the effect that the Respondent No. 1 had been taking the work, which 17 workmen were doing, from outside agencies - Perhaps the Respondent No. 1 was entitled to do so in view of the settlement and the Scheme sanctioned by the Board - Controversy raised was not free from doubt - Perhaps the Petitioners might have some justification in making of their grievance before the Court to the effect that the Respondent No. 1 must be directed to provide jobs to the workmen represented by Petitioners and restrained from taking the same work from outside agencies - Several factual and legal aspects should have to be examined in depth - All these problems could not be sorted out at an interlocutory stage - Parties should have to await the final hearing of the complaint - Industrial Court directed to dispose of the complaint on merits and in accordance with law expeditiously and as far as possible within six months - Petition dismissed.**

**ORDER**

**D.R. Dhanuka, J.**

1. Heard learned counsel on both sides.
2. There is some force in the contention of the petitioners that the Industrial Court had jurisdiction to entertain Complaint (ULP) No. 1483 of 1992 as well as application for interim relief. The question to be asked is as to whether interim reliefs sought for could be granted by the Industrial Court or whether the petitioners must await the hearing and final disposal of Complaint (ULP) No. 1483 of 1992.
3. The relevant facts emerging from the record are as under :-
  - (a) The respondent No. 1 was declared a sick industrial company by the Board constituted under Act 1 of 1986. A scheme has been framed and sanctioned by the said Board. A settlement has been arrived at between the promoters and Rashtriya Mill Mazdoor Sangh, a recognised union, on 5th February, 1991. The said Scheme and the said settlement contemplate

closure of all departments including Process House other than Spinning Department. The workmen concerned represented by the petitioners were employees of Process House run by respondent No. 1 at one point of time. It appears that the said Scheme contemplated retrenchment of the workmen concerned with Weaving and Processing Sections. Clause 2.4 of the Scheme provides that consequent to closure of the Weaving and Processing Sections, about 2168 workers and 488 employees in other categories would stand retrenched. The said Scheme provides that the retrenchment compensation estimated at Rs. 950 lacs would be paid to the workmen and employees concerned. Mr. Naidu, the learned counsel for the respondent No. 1 makes a statement at the Bar that the retrenchment compensation is being paid to the retrenched workers and the respondent No. 1 is ready and willing to pay such compensation to 17 workmen represented by the petitioners also. The respondent No. 1 would after the payment of retrenchment compensation to the said workmen in accordance with the Scheme to the workmen concerned expeditiously.

(b) It appears that the respondent No. 1 has started Process House again even though the sanctioned scheme and the settlement arrived at with Rashtriya Mill Mazdoor Sangh provided for closure of the Process House and payment of retrenchment compensation. Mr. Naidu, the learned counsel or the respondent No. 1 after taking instructions, makes a statement at the Bar that the department in which the 17 workmen represented by the petitioners were working has not been re-started by respondent No. 1. The names of these 17 workmen are listed in Exhibited 'A' to the petition.

**4.** After taking an overall view of the matter, I have reached the conclusion that no interim relief could have been granted by the Industrial Court to the petitioners on any view of the matter. The petitioners' complaint is to the effect that the respondent No. 1 has been taking the work, which these 17 workmen were doing, from outside agencies. Perhaps the respondent No. 1 is entitled to do so in view of the settlement dated 5th February 1991 and the Scheme sanctioned by the Board. The controversy raised is not free from doubt. Perhaps the petitioners may have some justification in making of their grievance before this Court to the effect that the respondent No. 1 must be directed to provide jobs to the workmen represented by the petitioners and restrained from taking the same work from outside agencies. Several factual and legal aspects shall have to be examined in depth before a definite conclusion is arrived at by the Court. All these problems cannot be sorted out at an interlocutory stage. In my opinion, parties shall have to await the final hearing of the complaint.

**5.** The petition fails. The petition is summarily dismissed. The Industrial Court is directed to dispose of the complaint on merits and in accordance with law expeditiously and as far as possible within six months from today. The Prothonotary and Senior Master is directed to forward a copy of this order to Industrial Court with a request for compliance thereof.

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