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Engineering Employees Union Vs. Devidayal Rolling and Refineries P. Ltd.

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Court : Mumbai

Decided On : Oct-14-1985

Reported in : 1986(2)BomCR246; (1986)88BOMLR61; [1986(52)FLR40];
1986MhLJ331

Judge : R.A. Jahagirdar, J.

Acts : [Limitation Act, 1963](#) - Sections 2; [Constitution of India](#) - Article 227;
[Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971](#) - Sections 44

Appeal No. : Writ Petition No. 3834 of 1985

Appellant : Engineering Employees Union

Respondent : Devidayal Rolling and Refineries P. Ltd.

Advocate for Pet/Ap. : N.B. Shetye, ;Nishita Pradhan and ;G.S. Kalsekar, Advs.

Disposition : Petition rejected

Judgement :

R.A. Jahagirdar, J.

1. This is a petition under Article 227 of the [Constitution of India](#) against an order dated 26th March, 1984 passed by the Labour Court at Thane in Complaint (ULP)

No. 89 of 1981. The petition has been filed on 7th August, 1985. In paragraph 12 of the petition the petitioner, which is a Union of the employees employed in the respondent Company, has stated that the Union 'had to struggle hard to collect funds for challenging the judgement' of the Labour Court. It is also stated that it had to contact 141 workman scattered at different places and to consult them to decide whether the matter should be taken higher up in the interests of justice. According to the Union, this naturally require some time.

2. What has been stated in paragraph 12 of the petition, in my opinion, is not sufficient explanation for the inordinate delay displayed in this case by the petitioner. The averments are too vague to be accepted.

3. That apart, the petitioner has an alternative and equity efficacious remedy by way of revision under section 44 of the [Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971](#). This Court has in *Navanath v. Shri Sidheshwar Sahakari Sakhar Karkhana, Limited*, 1981 Mh.L.J. 888, pointed out that revisional jurisdiction of the industrial Court under section 44 of the said Act is analogous to its jurisdiction under section 85 of the Bombay Industrial Relations Act. In an earlier judgement of this Court, namely in *Shree Talkies v. Industrial Court Maharashtra*, 1970 Lab.I.C. 1354, a Division Bench of this Court had pointed out as follows :---

'Section 85 of the Bombay Act Bombay (Bombay Industrial Relation Act) confers on the Industrial Court power of superintendence over the Labours Courts. This power superintendence appear prima facie to be unlimited and the language of section 85 is almost identical with the language Article 227 of the Constitution.'

4. When the act itself invests the Industrial Court with the power of superintendence over the orders passed by the Labour Court and this power of superintendency is as wide as the power of superintendence under Article 227 of the Constitution. I do not see how the petitioner can be by passing a remedy provided by the Act itself approach this Court under Article 227 of the Constitution. It is no answer to this difficulty to suggest, as Mr. Shetye appearing for the petitioner has suggested, that approaching the Industrial Court will take longer time and may not always be helpful in furthering the ends of justice. This argument

is unacceptable. When there is an equally efficacious remedy provided by the Act itself, I do not think it is a proper exercise of discretion to entertain this petitioner under Article 227 of the Constitution.

Accordingly, the petition is rejected.

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