

Gujarat High Court

Dhanesh B. Parikh vs President on 16 April, 2004

Author: J Bhatt

Bench: J Bhatt, D Patel

JUDGMENT J.N. Bhatt, J.

1. Admit. Service of notice is waived by learned advocates, Mr. Clerk for respondent no.1, Mr. Shalin Mehta for respondent no.2 and Mr. S.K. Patel for respondents no.3 to 5.

2. After consideration of the type and nature of controversy, which came to be initiated before the Industrial Court, Bhavnagar by filing the Reference [TU] No.1/2003, wherein, the order below Exh.2 came to be passed, whereby, interim injunction is issued pending the main application against the opponent [the appellant in the Letters Patent Appeal] restraining them from preventing from exercising their powers and rights and enjoying their benefits as per the provisions of Constitution of Union and performing their duties and activities and it was further directed to allow the appellants to perform their duties and functions as office bearers till the final decision is rendered by the Industrial Court.

3. This interim order was passed on 22.12.2003, and it was challenged by filing the writ petition, being Special Civil Application No.1752 of 2004 by the President of the State Bank of Saurashtra Employees Union, in which, the interim order came to be recorded by the learned Single Judge, on 17.2.2004, whereby, after consensuses, rule was issued in the writ petition and interim relief in terms of para 49 was granted with further direction and observations that if the Executive Committee is of the view of that in absence of any co-opted members, the functioning of the Executive Committee is not possible, then and only then, it will be open for the Executive Committee to co-opt the members, provisionally by majority and such co-opted members shall continue to function till the final disposal of the petition or the final outcome of the reference, whichever is earlier. This directions are under challenge in the Letters Patent Appeal No. 636 of 2004, wherein Civil Application No. 2982 of 2004 is filed for grant of interim relief. The Letters Patent Appeal is fixed for hearing today. The Respondent no.1 has filed affidavit-in-reply along with the paper cuttings and clippings, which has been taken on record.

4. During the course of hearing, and keeping in mind the type and nature of controversy, awaiting adjudication before the Industrial Court, the interlocutory order having been challenged in the writ petition passed by the Industrial Court, and again in turn, interlocutory order of the learned Single Judge, has been challenged in the Letters Patent Appeal. Upon consensus, we propose to pass following direction in the larger interest of justice, as well as to see that the real dispute awaiting adjudication before the Industrial Court is expeditiously heard and decide. Therefore, the Industrial Court is directed to decide and adjudicate upon the Reference (TU) No.1/2003, within a period of on month from the date of receipt of the writ of this Court, without fail. Parties are directed to cooperate with the Industrial Court for expeditious adjudication. Parties through their lawyers have also given their assurance for early disposal and during the pendency of that period, the disputed co-opted members, on either side, shall not participate in the functioning of the Executive Committee of the Union. We also clarify and observe that in case of any policy decision taken during

that period, it will be open for the aggrieved party to pursue legal permissible remedy available under the law. With these observations, and upon consensus, the Letters Patent Appeal, as well as the Special Civil Application challenging the interlocutory order of the Industrial Court, shall stand substituted by our present aforesaid directions and all these proceedings shall stand disposed of accordingly. Rule is discharged in Special Civil Application.

5. As the main appeal is disposed of, no further orders on civil applications.