

(2000) 09 BOM CK 0038
In the Bombay High Court
Case No : Writ Petition No. 2189 of 1988

Tukaram R. Rasal

APPELLANT

Vs

Krishna Sahakari Sakhar Karkhana Ltd. and Another

RESPONDENT

Date of Decision : 14-09-2000

Acts Referred:

Citation : (2002) 4 LLJ 318

Hon'ble Judges : T.K. Chandrashekhara Das, J

Bench : Single Bench

Final Decision : Allowed

Judgement

T.K. Chandrashekhara Das, J.—Rule. By consent heard both sides forthwith.

2. This Writ Petition arises out of the order passed by the Industrial Court, Maharashtra, Kolhapur in appeal (IC) No. 13/1985 passed on February 23, 1987. By the impugned order the Tribunal has set aside the order passed by the Labour Court, Sangli on February 28, 1985 whereby the application filed by the Petitioner for restoration of original case No. B.I.R. No. 42/1980 was restored. The Petitioner had filed B.I.R. 42/1980 challenging the order of dismissal by the Respondent.

3. It appears that on February 15, 1982 the Labour Court in its camp at Karad dismissed the application No. B.I.R. 42/1980 by the Petitioner on the ground that his Advocate withdrew his case. On coming to know the fact he approached the Presiding Officer and the Presiding Officer instructed him to file the application for restoration of the case. Accordingly he sent an application for restoration by post on July 1, 1982. The Labour Court considering the situation restored the case but the Revisional Court has interfered the discretion exercised by the original authority setting aside the order of restoration, granted by the Trial Court. The revisional authority has distinguished case with the decision in Smt. Ishwari U. Advani Vs. Employees' State Insurance Corporation and Others, and interfered with the order passed by the Court below. The learned counsel for the

Respondent tries to justify the order of the Revisional Authority and argued that if the Courts started to listen such a plea of a party who really instructed to withdraw the matter and thereafter an after thought" coming to the Court and say that the case may be restored, will amount to travesty of justice. Of course there may be. circumstances as pointed out by the appellate authority. But not in this case. In this case the original authority before whom the original case was withdrawn has listened to the contentions of the Petitioner and exercised its discretion in his favour. On a reading of the order of Appellate Authority, I find no cogent reason has been stated to interfere in the order passed by the original authority for restoring the case.

4. In view of this Writ Petition is allowed. I set aside the order impugned in this case. Rule is made absolute in terms of prayer Clause (a). In the circumstances no order as to costs.

5. Parties to act on the ordinary copy of this order issued by P. A. and authenticated by the Sheristedar of this Court.