

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2100/2015

1. Maharashtra State Farming Corporation Ltd.,
270, Bhamburda, Senapati Bapat Marg,
Pune 16, through its Managing Director.

2. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Sakharwadi, A-Farm, Sakharwadi,
Taluka Kopargoan, Dist. Ahmednagar.

3. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Laxmiwadi Farm, Taluka Rahata,
Dist. Ahmednagar.

4. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Changdeo Nagar Farm, Taluka Rahata,
Dist. Ahmednagar.

..Petitioners

VERSUS

1. The State of Maharashtra,
Through Secretary for Revenue
& Forest Department, Mantralaya,
Mumbai.

2. Kopargaon Taluka Sakhar
Kamgar Sabha, Sakharwadi,
Tq. Kopargaon, Dist. Ahmednagar,
through its Secretary.

..Respondents

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Shri P.V.Barde, Advocate for the petitioners,
Smt. V.A.Shinde, AGP for respondent No.1,
Shri V.J.Dixit, Sr. Advocate i/b Shri M.V.Navandar,
Advocate for respondent No.2.

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WITH
WRIT PETITION NO.2108/2015

1. Maharashtra State Farming Corporation Ltd.,
270, Bhamburda, Senapati Bapat Marg,
Pune 16, through its Managing Director.

2. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Haregon Farm, Shrirampur,
Taluka Shrirampur, Dist. Ahmednagar.

3. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Tilak Nagar Farm, Taluka Shrirampur
Dist. Ahmednagar.

..Petitioners

VERSUS

1. The State of Maharashtra,
Through Secretary for Revenue
& Forest Department, Mantralaya,
Mumbai.

2. Kopargaon Taluka Sakhar
Kamgar Sadan, Dawkhar Road,
Tq.Shrirampur, Dist. Ahmednagar,
through its Vice President.

..Respondents

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Shri P.V.Barde, Advocate for the petitioners,
Smt. V.A.Shinde, AGP for respondent No.1,
Shri A.V.Shelke Advocate for respondent No.2.

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AND

WRIT PETITION NO.2109/2015

1. Maharashtra State Farming Corporation Ltd.,
270, Bhamburda, Senapati Bapat Marg,
Pune 16, through its Managing Director.

2. The Estate Manager,
Maharashtra State Farming Corporation Ltd.,
Belwandi Farm, Shrigonda,
Taluka Shrigonda, Dist. Ahmednagar.

..Petitioners

VERSUS

1. The State of Maharashtra,
Through Secretary for Revenue
& Forest Department, Mantralaya,
Mumbai.

2. Shrigonda Taluka Sakhar
Kamgar Union, "Shramik"

Tilak Road, Ahmednagar,
through its Secretary

..Respondents

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Shri P.V.Barde, Advocate for the petitioners,
Smt. V.A.Shinde, AGP for respondent No.1,
Shri A.V.Shelke Advocate for respondent No.2.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: June 22, 2015

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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is heard finally.

4. I have considered the contentions of Shri Barde on behalf of all the petitioners, the learned AGP on behalf of respondent No.1 State and Shri Dixit, learned Sr. Advocate, Shri Natu and Shri Shelke on behalf of respondent No.2 respectively, in these three petitions

5. An interlocutory order below Exhibit U/2 has been passed by the Industrial Court, dated 8.1.2015 in Complaint (ULP) Nos. 110 of 2014, 109 of 2014 and 108 of 2014, impugned in these three petitions, respectively.

6. The grievance in nutshell is that the petitioners have passed an order under the signature of the Managing Director, dated 25.11.2014. There are three orders of the said date, bearing Nos.1086, 1087 and 1088. The monthly rent and the security deposit in relation to the residences / quarters and rooms being used by the several officers and employees of the petitioners including certain outsiders, contractual employees and retired employees, is sought to be revised. By these orders, the monthly rents and the security deposits have been enhanced.

7. The above referred three complaints were preferred by the three Unions, who are respondent No.2 in each of these three petitions. Item Nos.9 and 10 of Schedule IV of the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 have been invoked in these three complaints. An application for interim relief Exhibit U-2 has been preferred by these three Unions under Section 30(2) of the said Act.

8. The petitioners have opposed the said complaints by filing detailed Written Statements and have also opposed the applications for interim relief.

9. By the impugned orders, dated 8.1.2015, passed in these three complaints, the Industrial Court has arrived at a conclusion that the impugned three orders, dated 25.11.2014, be stayed until further orders.

10. Having heard the learned Advocates for the respective sides, it is evident that the main complaints are pending hearing and final disposal. Issue involved in the complaints is as regards, whether the beneficiaries of the complaint are prejudicially affected by the impugned orders, dated 25.11.2014. As such, it has to be established before the Industrial Court that those workers / retired employees or any other person are covered by any existing settlement / agreement or award, which would be affected by the impugned orders. In short, the complainants have to establish unfair labour practices under item 9 of Schedule IV of the said Act, by proving that the impugned orders would result in the failure or violation on the part of the employer in implementation of any settlement / agreement or award.

11. Parties are before this Court in relation to an interlocutory order. The Industrial Court has weighed the balance of convenience and has accordingly arrived at a prima facie conclusion that the complainants need to be protected till the disposal of the complaint.

12. Learned Advocates for the respective sides are in agreement that the issue before the Industrial Court is as regards the applicability of existing settlement / agreement / award and the effect of the impugned orders, dated 25.11.2014 on the members of the complainant - Unions. It is also informed that there are Managers and outsiders, who are not members of the complainant - Union and who are covered by the impugned orders. The respondents - Union have asserted before this Court that their members for whom they are espousing the cause include the present employees as well

as the retired employees / legal heirs.

13. I am not inclined to cause any interference in the impugned orders for two reasons, at this stage. Firstly, that an interim order has been questioned and secondly, the parties will have to lead evidence to establish their respective stands. It is, therefore, pre-mature to consider the controversy in these petitions, when evidence is yet to be recorded and the Industrial Court is yet to adjudicate upon the dispute finally. Indulgence by this Court, at this stage, in the peculiar facts of the case, is likely to invite certain observations and conclusions, which might affect the rights of the parties, prior to the complaints being decided finally.

14. Shri Dixit, Shri Shelke and Shri Natu submit that the Managers and outsiders, who are covered by the three orders dated 25.11.2014 are not before the Industrial Court through the complaints filed by the three Unions. As such, the impugned orders ought to be construed to be in relation with those employees and persons for whom the complainant Unions are agitating through the three complaints before the Industrial Court.

15. In the light of the above submissions, the Managers and outsiders and such persons who are not represented by the Complainant / Unions shall stand excluded from the impugned orders. For clarity, the employees / retired employees and legal heirs of deceased employees shall continue to be protected by the impugned orders, till the decision in the main

Complaints.

16. In the light of the above, I am not inclined to accept the submission of Shri Barde that the merits of the matter be looked into at this stage in these three petitions.

17. As such, these three petitions are disposed off without causing any interference in the impugned order dated 8.1.2015, except as in paragraph No.15 above. So also, I am issuing certain directions so as to ensure that the Complaints are decided expeditiously, as follows:-

(A) The Industrial Court shall decide these three Complaints as expeditiously as possible and preferably on/or before the 2.1.2016.

(B) Since, an identical issue is involved in the said three Complaints, the Industrial Court is at liberty to permit one of the Unions to lead evidence on behalf of all the Complainants, which could be adopted by the remaining complainants, in the event, there is a consensus between the three. If not, each of the complainants may lead evidence in support of its complaint.

(C) Similarly, the petitioners, who are respondents before the Industrial Court, may lead evidence in one complaint and adopt the same on behalf of all the respondents in the three Complaints.

(D) The claims as regards those persons / employees represented by the Complainant / Unions shall be gone into by the Industrial Court.

(E) The observations of the Industrial Court in the impugned interim orders are at a prima facie stage and therefore, the Industrial Court shall not be influenced by its observations in these interlocutory orders while deciding the main complaints.

(F) As this Court has declined to interfere with the impugned orders, it shall not mean that the observations / conclusions set out in the impugned order are ratified / confirmed by this Court. The Industrial Court shall, therefore, decide the main Complaints on their own merits, after the litigating sides adduce oral and documentary evidence.

18. As the complaints before the industrial Court are scheduled on 24.6.2015, the respective sides shall pray for an adjournment. They are at liberty to submit draft issues, by way of assistance to the Industrial Court for framing the issues.

19. The litigating sides shall cooperate with the Court. Needless to state, adjournment sought on frivolous or unreasonable grounds, by any of the litigating sides, shall not be entertained by the Industrial Court.

20. With the above observations / directions, the petitions are disposed off. Rule is accordingly, discharged.

(RAVINDRA V. GHUGE, J.)

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