

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.L.P.A. No. 505 of 2011
(In W.P. No. 110/00 [D])

Devidas Madhaorao Ambare & ors.

v.

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Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. P.D. Randive Advocate for appellants 3, 7.10 & 14.
Mr. M.G. Bhangde, Sr. Advocate for respondent no. 1.

...

Coram : B.P. Dharmadhikari &
S.B. Shukre, JJ.**Date : 1st April, 2015.**

Heard.

Question is, whether Industrial Court could have examined the disputed issue of relationship between the parties. Perusal of the complaint as filed by the present appellants under Section 28 read with Section 30 of Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971, (for short the said Act) reveals an assertion that the respondent no. 1/employer intended to show complainants as employees of respondent no. 2/contractor to avoid payment as per Palekar Award. The said contractor was joined as respondent no. 2.

The learned Member of the Industrial Court has looked into the grievance after the parties adduced evidence and noted certain documents to reach the conclusion that there was direct relationship between the parties. In the process, it relied upon a judgment of this Court in **Maharashtra General Kamgar Union, Bombay v. CIFLA Ltd. Bombay** reported in **1997(1) Mh.L.J. 201** which has been later on over-ruled by the Hon'ble Apex Court. Said judgment of Hon'ble Apex Court is reported in **Cipla Ltd. v. Maharashtra General Kamgar Union & ors. - 2001 SC 1165.**

Considering that judgment of this Court, Member, Industrial Court has stated that after perusal of oral and documentary evidence produced before it, direct or immediate relationship with the contractor was ruled out. It also found that real truth was draped in different paper arrangement but the complainants were employees of respondent no. 1 only and not of respondent no. 2.

As held by the Hon'ble Apex Court and this Court in various judgments, the Industrial Court while trying such complaints under Section 28 of the said Act, does not possess jurisdiction to delve into such question. The finding that the contract was sham or bogus and complainants were real employees of respondent no. 1 was not possible within said jurisdiction.

The learned Single Judge has, therefore, correctly appreciated the controversy. No case is made out warranting interference. L.P.A. is rejected. No costs.

Judge

Judge