

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

WRIT PETITION NO. 1353 OF 1995  
WITH  
CIVIL APPLICATION NO.4407 OF 2000  
IN WP/1353/1995

Marathwada Sarva Shramik Sanghatana,  
through it's Joint Secretary,  
Shri U.G.Mahanor,  
C/o Trade Union Centre,  
Dhande Galli, Tq. & Dist.Beed.

...PETITIONER

-VERUS-

- 1 The State of Maharashtra.  
Copy to be served on Government  
Pleader.
- 2 Director of Agriculture,  
Maharashtra State,  
Central Building, Pune.
- 3 Divisional Joint Director of  
Agriculture (Extension),  
Aurangabad Division,  
Jalna Road, Aurangabad.
- 4 District Seeds Officer,  
Subhash Road,  
Beed.

...RESPONDENTS

...  
Advocate for Petitioner : Shri A.S.Shelke.

AGP for Respondents: Shri D.V.Tele.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 21<sup>st</sup> January, 2016**

Oral Judgment:

1            This petition was admitted by order dated 24.03.1995 and was set down for hearing along with Writ Petition No.852/1995 as identical set of facts were involved in these two matters. Interim relief was granted akin to the order passed in Writ Petition No.852/1995.

2            Writ Petition No.852/1995 was admitted by order dated 10.03.1995 and interim relief was granted in the nature of preventing the Respondent/ Establishment from terminating the services of the employees listed in Annexure-A page 17 of the said petition. The said relief was also, therefore, made applicable to the petition in hand.

3            This Court by its judgment and order dated 23.02.2004 passed in Writ Petition No.852/1995, has sustained the impugned judgment of the Industrial Court and dismissed the petition. The interim relief was vacated.

4            I have heard Shri Shelke, learned Advocate for the Petitioner and the learned AGP for the Respondents for quite sometime.

5            Since Writ Petition No.852/1995 has been dismissed which was in relation to Complaint (ULP) No.109/1990 that was dismissed by the Industrial Court, Aurangabad, I do not find different circumstances in this petition which would convince the Court in taking a different view with regard to the impugned judgment of the Industrial Court delivered in Complaint (ULP) Nos.107/1990 and 108/1990.

6            Shri Shelke, however, points out that one of the Petitioners set out in Annexure-A at page 12 of this petition, namely, Shri Ramesh Pandharinath Kharwade, has been continuously in employment and by an order dated 30.06.2010 issued by the Respondent, he was accommodated against the vacant post of Grade-I Majoor (Majdoor) with the Agriculture Officer, Taluka Seeds Certification Centre, Shidod, Taluka and District Beed. A copy of the said order dated 30.06.2010 is placed on record, which is marked as Exhibit X for identification.

7            Shri Shelke submits that though Exhibit X creates an impression that Shri Ramesh Pandharinath Kharwade was engaged only on temporary basis on a permanent vacant post, he has continued in the said post even thereafter. He had joined duties on 28.01.1988. Shri Shelke, therefore, submits that though this Court is dismissing the petition

in the light of the judgment of this Court in Writ Petition No.852/1995, the case of Shri Ramesh Pandharinath Kharwade needs to be exempted.

8           Shri Shelke, however, fairly states that the order Exhibit X was subsequently recalled after about five to six months and Shri Ramesh Kharwade was once again reverted back to his status as a daily wager.

9           The learned AGP submits that the facts with regard to the continuance of Shri Ramesh Pandharinath Kharwade are not before this Court. Hence, this Court may not entertain the submissions of Shri Shelke.

10          I find that in the event Shri Ramesh Pandharinath Kharwade has continued in employment all throughout, it would be travesty of justice that the dismissal of this petition would lead to the Respondents terminating his services. As such, though this petition is being dismissed, the issue of Shri Ramesh Pandharinath Kharwade needs to be kept open.

11          In the light of the above, this Writ Petition is dismissed. Rule is discharged. Interim relief granted earlier stands vacated.

12          However, Shri Ramesh Pandharinath Kharwade is left at liberty to seek service benefits/ retiral benefits in the event he has

continued in employment during his journey of litigation.

13           The pending Civil Application does not survive and hence, the same is disposed of.

*kps*

**(RAVINDRA V. GHUGE, J.)**