

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.397 OF 1998

Agricultural Produce Market
Committees having office at
Dhule Road, Amalner,
Through its Secretary.

= **APPELLANT**
(orig. Applicant)

VERSUS

The Employees State Insurance
Corporation (A statutory Corporation
constituted under Employees' State
Insurance Act, 1948, having one of
its Sub Regional Office at P.M.T.
Commercial Complex, Swargate, Pune.

= **RESPONDENT**

Mr.NB Khandare, Advocate for Appellant;
Mr.VD Sonawane, Advocate for Respondent

CORAM : P.R.BORA, J.

DATE : 23rd August, 2016.

ORAL JUDGMENT:

1) Heard. The appellant – Agricultural
Produce Market Committee has filed the present
appeal taking exception to the judgment and order

dated 12th June, 1998 passed by the Judge, Employees' Insurance Court, Pune. The challenge to the judgment and order is raised *inter alia* on several grounds. Applicability of the provisions of The Employees' State Insurance Act, 1948 (for short, the ESI Act) to the appellant – Market Committee was the principal ground raised in the appeal and in addition to that, the other grounds are also raised.

2) In so far as applicability of the provisions of the ESI Act is concerned, the said controversy has been settled by the Judgment of the Division Bench of this Court delivered on 7th January, 2015 in WP No.3276/1999.

. The aforesaid writ petition was filed by the Dhule Agricultural Produce Market Committee, wherein the point at issue was, whether the provisions of the Employees' State Insurance Act can be applied to the Agricultural Produce Market Committees; and the Division Bench of this Court has recorded a finding that the provisions of ESI

Act are applicable to the Agricultural Produce Market Committees.

3) It is informed that the decision rendered in Writ Petition No.3276/1999 was challenged before the Hon'ble Apex Court. However, the Special Leave Petition so filed has been dismissed by the Hon'ble Apex Court.

4) Shri Khandare, learned Counsel appearing for the appellant, therefore, did not press the said issue in view of the aforesaid judgment of the Division Bench, which stood confirmed up to the Hon'ble Apex Court.

5) The second point, which was raised by Shri Khandare, was in respect of jurisdiction of Pune Court for deciding the application so filed by the appellant. Inviting my attention to the provisions of Section 74 of the ESI Act, the learned Counsel submitted that the only Court, which was having jurisdiction to decide the

controversy was the Court at Jalgaon and not at Pune.

. The learned Counsel also placed on record a Notification dated 1st April, 1987, evidencing that for Jalgaon district, Shri J.A.Gaikwad, Judge, Labour Court, Jalgaon was designated as ESI Court. However, the submission so made by Shri Khandare also cannot be accepted in view of the specific provisions in The Bombay Employees' State Insurance Courts Rules, 1959.

6) Shri Sonawane, learned Counsel appearing for the Respondent - Corporation, invited my attention to Rule 16 of The Bombay Employees' Insurance Courts Rules, 1959, which reads thus, -

"16. Place of suing

In cases not falling under sub-section (1) of Section 76, a proceedings against any person shall be instituted in the Court within the local limits of whose jurisdiction -

(a) the apposite party or each of

the opposite parties where there are more than one, at the time of commencement of the proceedings, actually and voluntarily reside, or carries on business, or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the commencement of the proceedings actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the court is given, or the opposite parties, who do reside, or carry on business or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action wholly or in part, arose."

7) Reading of the aforesaid Rule makes it clear that Pune Court was having jurisdiction to decide the controversy. As pointed out by Shri Sonawane, learned counsel appearing for the respondent, in the application filed by the

appellant before the Insurance Court at Pune, the appellant itself has stated in para 1 of the said application that the entire cause of action for filing the said application had occurred in Pune since the hearing for recovery of contribution under the ESI Act took place at Pune in the office of opponent. In the aforesaid application in para 9 thereof, the appellant had reiterated that the cause of action for hearing the said application arose within the jurisdiction of Pune Court. It is further significant to note that the appellant had also referred to Rule 16 of The Employees' Insurance Court Rules in the application by it before the Pune court. In view of the above, the point so urged by Shri Khandare, learned counsel appearing for the appellant Market Committee that the Pune Court was not having jurisdiction to decide the application, cannot be sustained. I reiterate that the Pune Court was having jurisdiction to decide the application filed by the appellant – Market Committee. I, therefore, do not see any

reason for causing interference in the impugned order. The appeal is devoid of any substance. Hence, the following order, -

ORDER

- i) The appeal is dismissed without any order as to costs;
- ii) Pending Civil Application, if any, stands disposed of.

sd/-
(P.R.BORA)
JUDGE

bdv/