

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12605 OF 2016

MUNICIPAL COUNCIL, OSMANABAD
VERSUS
SHAIKH ABDUL HAFIZ GULAB & ANR

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Advocate for Petitioner : Shri Naiknaware R.V.
AGP for Respondents: Shri Bhagat N.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated : December 20, 2016

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PER COURT :-

1. The petitioner is aggrieved by the order dated 13.12.2016, by which, the Industrial Court has allowed application Exhibit U/13 filed by the respondent, by which, he has been permitted to have the documents exhibited which have been referred to in cross-examination.
2. Learned Advocate for the petitioner has strenuously criticized the impugned order. He has taken me through the grounds for challenge set out in the petition.
3. This Court, by its order dated 16.2.2016, passed in Writ Petition No.1677 of 2016 had expedited the hearing of the complaint before the Industrial Court.

4. The respondent / original complainant had recorded his examination-in-chief through an affidavit and was cross-examined by the petitioner. In his cross-examination, the document Nos.10, 11, 20, 21, 30, 31, 41 and 51 below Exhibit C/20 and C/21 were confronted to the complainant and based on the said documents, the petitioner has posed questions. In short, the said documents were referred to in the cross-examination by the petitioner itself. So also, the record reveals that these documents were neither admitted nor denied by the petitioner prior to commencing the cross-examination. Since the documents were shown to the complainant in his cross-examination and questions were posed in connection with the said documents, Exhibit numbers should have been normally granted.

5. The respondent / complainant when noticed during the recording of evidence of the petitioner after closing his evidence that the said documents were not exhibited, that he moved application Exhibit U/13. Same was allowed by the impugned order after concluding that those documents were not denied by the petitioner and in fact were referred to by the petitioner in the cross-examination of the complainant and hence Exhibit Numbers could be granted. I do not find that the Industrial Court has committed any error in arriving at the said conclusion.

6. The Industrial Court referred to paragraph No.4 of the

judgment of the Delhi High Court, dated 8.9.2015, in the matter of Rajbeer Singh Vs. Delhi Transport Corporation - LPA No. 398 of 2010, which has ruled as under;-

“4. It is trite law that strict rules of evidence are not applicable to the proceedings before the Industrial Tribunal/Labour Court and they are free to devise rules of procedure in accordance with principles of natural justice. Thus in an application under Section 33(2)(b) ID Act, it is not the requirement of law that the Tribunal will insist proof of the enquiry conducted in accordance with Indian Evidence Act by examining the Inquiry Officer and exhibiting the report. Suffice it is that the enquiry report and the proceedings conducted by the Inquiry Officer are produced before the Industrial Tribunal/Labour Court.”

7. The interest of the petitioner has been protected by the Industrial Court by it's following observations in paragraph No.10:-

“10. It is also settled proposition that even if a document is exhibited, to what extent the Court can rely upon such document remains judicial discretion. Because marking a document with exhibit number and proof of documents are totally different aspects. It is also settled that photo copy of

the document can be marked with Exh. Nos. and the proper remedy for the other side is to produce a document in rebuttal and mere denial is not sufficient. Even otherwise the counsel for respondent No.1 has referred the documents filed by the complainant while cross-examining and therefore no prejudice shall be caused to the respondent if the documents and photo copies filed by the complainant are exhibited. The respondents are at liberty to further cross-examine the complainant in view of the instant order.”

8. In the light of the above, I do not find any reason to cause interference in the impugned order. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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