

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5907 OF 2015**

Sambhaji Dhondu Ghag

..Petitioner

Vs.

Matru Mandir & Ors.

..Respondents

Ms Rita Joshi i/b Mr. Ashok Shetty for the Petitioner

Mr. Kiran Bapat a/w Mr. J. K. Desai i/b Ms Desai & Desai Associates for the Respondent No.1

CORAM : R. M. SAVANT, J.

DATE : 13th OCTOBER, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 2-2-2015 passed by the Learned Member of the Industrial Court, Kolhapur, by which order, the Revision Application being Revision ULP No.71 of 2010 came to be allowed and resultantly the order dated 17-3-2010 passed by the Labour Court in Complaint ULP No.21 of 2009 came to be set aside.

2 The Petitioner herein was appointed by the Respondent No.1 as a community worker, the Respondent No.1 is a trust carrying out activities which are social and charitable in nature. The Respondent No.1 was being funded by the various organisations including the State. The Petitioner was informed vide letter dated 3-3-2009 that his services would come to an end on 3-4-2009. It was stated in the said letter that the Petitioner was working on the Jal Swarajya Project and that though the project has come to an end by one and

half years back, the Respondent No.1 has still not received any grant or aid. The said letter dated 3-3-2009 resulted in filing of Complaint ULP No.21 of 2009 by the Petitioner under Item 1 of Schedule IV of the MRTU and PULP Act, 1971. It seems that in the said Complaint, the Petitioner filed an application for interim reliefs being Exhibit U-2. By order dated 16-4-2009 interim reliefs came to be granted to the Petitioner thereby the termination of the services of the Petitioner came to be stayed. This resulted in the Respondent No.1 issuing order dated 18-7-2009 cancelling the letter dated 3-3-2009 by which the services of the Petitioner were terminated. The Complaint thereafter proceeded to trial. The Learned Judge of the Labour Court by order dated 17-3-2010 allowed the said Complaint and issued the declaration of unfair labour practice as sought for by the Petitioner. However, in so far as the services of the Petitioner were concerned, a direction came to be issued that the services of the Petitioner should not be terminated without following the due process of law.

3 The Respondents aggrieved by the said order dated 17-3-2010 filed a Revision being Revision ULP NO.71 of 2010. The Revisionary Court having regard to the fact that the Respondent No.1 was a trust and the Petitioner was appointed as a community worker adjudicated the Revision from the perspective of whether the Petitioner could be termed as a workman within the meaning of Section 2(s) of the Industrial Disputes Act. The Learned

Member of the Industrial Court having regard to the fact that the Petitioner was working as community worker and that the Respondent No.1 was also a trust which was involved in implementing the projects which were social and charitable in nature, held that the Petitioner does not qualify to be a workman within the meaning of Section 2(s) of the Industrial Disputes Act and therefore the Complaint filed by the Petitioner under the MRTU and PULP Act was not maintainable. The Learned Member of the Industrial Court accordingly allowed the Revision and set aside the order dated 17-3-2010 passed by the Labour Court and dismissed the Complaint.

4 The Learned Counsel appearing on behalf of the Petitioner Ms Joshi would contend that the issue as regards whether the Petitioner is a workman or not be relegated back to the Labour Court for the parties to adduce evidence in respect of the said issue.

5 In my view, it is not necessary to carry out the said exercise in the light of the fact situation prevailing in the present case where admittedly the Respondent No.1 is a trust which can be said to be carrying out implementation of projects which are social and charitable in nature and being funded by agencies and the State Government. The fact that the project has come to an end which is mentioned in the letter dated 3-3-2009 issued to the Petitioner also cannot be lost sight of. Hence no useful purpose would be

served by ordering a remand as the same would unnecessarily delay the inevitable. In that view of the matter no case for interference is made out, the Writ Petition is accordingly dismissed.

6 At this stage the Learned Counsel for the Petitioner prays for continuation of services of the Petitioner. In my view, in the facts and circumstances of the case, the said prayer cannot be acceded to and is therefore rejected.

[R.M.SAVANT, J]