

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2724/2015

(BALBHIM NAMDEO SHIRSAT & OTHERS **VERSUS** THE DY. DIRECTOR, VYAVASAYA, SHIKSHAN VA
 PRASHIKSHAN PRADESHIK KARYALAYA, AMRAVATI & ANOTHER)

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

Court's or Judge's orders

Ms Nisha Gajbhiye, Appointed Counsel for the petitioners.
 Mrs. K.R. Deshpande, A.G.P. for the respondents.

CORAM : SMT.VASANTI A. NAIK, J.

DATE : APRIL 2, 2016.

By this writ petition, the petitioners challenge the orders of the Industrial Court dated 09.12.2014 allowing the revision filed by the respondents and reversing the order passed by the Labour Court in the complaint filed by the respondent under the Provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

The petitioners are the legal heirs of the original complainant who had filed a complaint before the Labour Court under the provisions of the Act of 1971. It was the case of the original complainant that he was appointed by the respondents as a Store-Keeper on 02.09.1997. The services of the original complainant were terminated by the order dated 27.02.1998 on the ground that the original complainant had supplied false information in the form tendered by him while seeking appointment on the post of Store-Keeper. The respondents had terminated the services of the original complainant as he had not disclosed that he was convicted for the offences punishable under Sections 279 and 337 of the Indian Penal Code. The order of dismissal was challenged by the original complainant in the complaint before the Labour Court. The Labour Court allowed the complaint of the original complainant by the judgment dated

02.11.2006 and directed the respondents to continue the original complainant in service till he attains the age of superannuation. After quashing the impugned order of termination, the Labour Court directed the payment of the legitimate claims of the original complainant to him. The order of the Labour Court was challenged by the respondents before the Industrial Court in a revision. The Industrial Court, by the impugned judgment dated 09.12.2014, allowed the revision filed by the respondents and set aside the order of the Labour Court. During the pendency of the revision, the original complainant had expired and the petitioners, his legal heirs, were brought on record. The petitioners have challenged the order of the Industrial Court in this writ petition.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioners in this writ petition cannot be granted in the circumstances of the case. Admittedly, the original complainant had not disclosed that he was convicted for the offences punishable under the Indian Penal Code and on the other hand, he had answered the query whether he was prosecuted or convicted for any offence in the negative. In this background, the Industrial Court held that the Labour Court was not justified in allowing the complaint filed by the original complainant. This is a case where the complainant did not keep the column in respect of the query about the conviction and/or prosecution unanswered but, the said query was answered in the negative. The Industrial Court considered this aspect of the matter while holding that the original complainant was not entitled to the relief prayed. Even otherwise, during the pendency of the revision, the original complainant has expired and there is no question of reinstating the complainant in service. The prayer made in this writ petition for appointment of the legal heir of the original complainant on compassionate ground cannot be considered in the circumstances of the case. Even if as per the Police Manual, a recruitment of convicted person could be made, the original complainant was not entitled to reinstatement.

The removal of the original complainant was not because he was convicted for the offences punishable under Section 279 and 337 of the Indian Penal Code but, because of supplying palpably incorrect information about a material query in the application form. There is no reason to interfere with the impugned order in exercise of the writ jurisdiction.

Hence, the writ petition fails and is dismissed with no order as to costs.

The charges of the counsel appointed for the petitioner are fixed at Rs.1,500/-.

JUDGE

APTE