

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4817 OF 2001

1. Maharashtra State Cooperative
Cotton Growers Marketing
Federation Limited,
Head Quarter at Nagpur
through its Managing Director
Office situated at Cotton Complex,
Ajani Chowk, Wardha Road,
Nagpur.

2. Maharashtra State Cooperative
Cotton Growers Marketing
Federation Limited,
Head Quarter at Nagpur
through its General Manager
(Administration),
Office situated at Cotton Complex,
Ajani Chowk, Wardha Road,
Nagpur.

3. Maharashtra State Cooperative
Cotton Growers Marketing
Federation Limited, Through
Zonal Manager,
Zonal Office situated at
Tarwadekar's Building,
Taroda Naka, Nanded.

..Petitioners

Versus

Punjabrao Gulabrao Chaudhari,
Age 53 years, Occ. Service
R/o at and post Katol,
Tq. Katol, Dist. Nagpur.

..Respondent

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Advocate for Petitioner : Shri S.S.Wagh h/f Shri Shivaji T.Shelke
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CORAM : RAVINDRA V. GHUGE, J.
Dated: May 12, 2017
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ORAL JUDGMENT :-

1. None appeared for the respondent on 9.5.2017 and even today.
2. The petitioner is aggrieved by an interlocutory order dated 12.10.2001, passed by the Industrial Court, Jalna below application Exhibit C-3 in Complaint (ULP) No.145 of 2001, by which, the said application has been rejected.
3. While admitting this petition, this Court has granted interim relief to the petitioner as prayed for. Consequentially, Complaint (ULP) No.145 of 2001 has been stayed.
4. The interim order of this Court is in operation for almost 16 months.
5. The petitioner has prayed in application Exhibit C-3 that the issue as to whether the respondent is a "workman" or not and whether the Complaint is maintainable or not, should be decide as a preliminary issue. By the impugned order, the Industrial Court concluded that it would decide the said issue while deciding the interim relief application.
6. It is settled law that the Court cannot grant interim relief to any

claimant until the Court concludes that it has jurisdiction to entertain the claim petition. In the instant case, the petitioner claims that the respondent is not a workman under Section 2(s) of the Industrial Disputes Act and, therefore, not an employee under Section 3(5) of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 and hence the complaint is untenable. The Industrial Court has held that it would decide whether the respondent is a workman or not, while deciding the interim relief application.

7. In the light of the above, this petition is disposed off.

8. The Industrial Court is directed to decide whether the respondent is a "workman / employee" or not, while dealing with the application for interim relief and by framing a proper issue to that effect. Needless to state, in the light of the law laid down by this Court in the matter of Dalal Engineering Pvt. Ltd. vs Ramrao Bhaurao Sawant And Others [1991 (4) Bom.CR 571 = (1992) IILLJ 384 Bom. = 1991 (2) Mh.L.J. 1534], the Industrial Court would not grant interim relief unless and until it comes to a conclusion that it has jurisdiction to entertain the Complaint. The Industrial Court shall, therefore, decide the said issue and then entertain the application for interim relief.

9. The Industrial Court shall, therefore, decide the Complaint (ULP) No.145 of 2001 as expeditiously as possible and preferably on/or before

31.3.2018. The petitioner shall appear before the Industrial Court on 17.6.2017. The Industrial Court would issue notice to the original complainant and thereafter, proceed with the complaint.

(RAVINDRA V. GHUGE, J.)

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akl/d