

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.112 OF 2017

Sheetal Medicare Products

Pvt. Ltd. & Anr.

.. Petitioners.

Vs.

Maharashtra Rajya Rashtriya

Kamgar Sangha

.. Respondent.

Mr. Avinash Jalisatgi i/b T.R.Yadav for the petitioners.

Mr. Shailesh S. Pathak for the respondent.

CORAM : A.K. MENON, J.

DATED : 18TH DECEMBER, 2017

P.C. :

1. By this writ petition, the petitioners have challenged the judgment and order dated 6th December, 2016 in passed in Complaint (ULP) No.161 of 2015 by which the Court held as follows :

“A. Applications Exh. U-2 and U-12 are allowed as follows :

** The Respondents shall not terminate services of employees of the complainant union without following due process of law.*

** The Respondents shall provide work to the*

employee of the complainant union.

B. No order as to costs.”

2. Heard parties. In paragraph 6(a) the Industrial Court held that the complainant has produced sufficient documentary evidence to prove the employer-employee relationship. On the contrary, perusal of Annexure-B to the complaint being a copy of the letter dated 11th July, 2015 and which is annexed to this petition shows that the respondent itself had referred to its workmen members as “workmen of the contractor”. Mr.Jalisatgi, learned counsel for the petitioner also submitted that in yet another letter dated 7th September, 2015, copy of which appears at Exhibit-3 to additional affidavit filed on behalf of the petitioner dated 15th March, 2007, the respondent has referred to the contractors by name on whose behalf the petitioner has stated to have paid salary.

3. In view of the fact that these documents are not in dispute and are issued on the letter head of the respondent, the findings of the Industrial Court are clearly incorrect.

4. In the circumstances, both parties agreed that the impugned order may be set aside by consent, in view of the fact that certain additional documents have been relied upon by the parties which were not before the

Tribunal. Parties will be at liberty to file only additional compilation of documents, pleadings are otherwise complete. In the circumstance, I pass the following order :

- (a) The impugned order dated 6th December, 2016 is hereby set aside and the Complaint (ULP) No.161 of 2015 is remanded to the Industrial Court.
- (b) The parties are at liberty to file additional documents if any within a period of two weeks from today.
- (c) In view of the submission on behalf of the respondent that the employees concerned are out of work and considering the facts of the case, the Industrial Court will make an endeavor to dispose of the same within a period of six months from today.
- (d) No orders as to costs.

(A.K. MENON,J.)