

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.3023 OF 2017

Brima Sagar Maharashtra Distillaries Ltd.	Petitioner
Versus	
Brihans Kamgar Sangh & Anr.	Respondents

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Mr. Suhas Inamdar for the Petitioner.
Mrs. Anjali Helekar for the Respondents.

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CORAM : PRASANNA B. VARALE, J.

DATED: 14 SEPTEMBER, 2017

P.C. :

. Heard learned Counsel for the Petitioner.

2. Learned Counsel at the outset submits that inadvertently the Concerned Authority, namely, the Assistant Commissioner of Labour, Solapur, whose order is under challenge, is not made a party to the petition. Learned Counsel orally prays for amendment to the petition by adding the party respondent to the petition i.e. the Assistant Commissioner of Labour as respondent No.2. The oral prayer is granted. Necessary amendment be carried out.

3. Perused the order of this Court dated 30.03.2017. In view of the order of this Court as well as on perusal of the material placed on record, I am of the opinion that the petition can be safely disposed

of at the admission stage as the issue involved in the present petition is limited one and is squarely covered by the judgments of this Court as well as the judgments of the Hon'ble Apex Court. This Court in the detailed order dated 30.03.2017 referred the order impugned in the petition and was pleased to observe submissions of the learned Counsel and the same reads thus.....

“The learned counsel for the petitioner submits that except these two statements as stated above, the Respondents failed and neglected to assign any reason for condonation of more than 22 months delay. He submits that as per Section 20(2) of the said Act, such application under the said Act is maintainable, if it is preferred within six months from the date on which the minimum wages or other amount being payable. If there is delay, then they have to make out sufficient cause for condonation of delay. Section 20(2) of the said Act, reads thus:

“20(2). [Where an employee has any claim of the nature referred to in sub-section (1)], the employee himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector, or any person acting with the permission of the Authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the minimum wages [or other amount] become payable: Provided further that any application may be admitted after the said period of six months when the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.”

4. This Court also referred to the judgment of the Hon'ble Apex Court in the matter of ***Vasudeo Vishwanth V/s. New Education Institute, reported in 1986 AIR(SC) 2105***. Learned Counsel for the petitioner also placed reliance on the judgment of the Division Bench of

this Court in the matter of *Digitek Krida Vikas Sanshodhan Va Shikshan Bahuuddeshiya Sanstha V/s. The State of Maharashtra, Through Principal Secretary Higher and Technical Education Department & Another*, reported in 2011 2 AIIRMR 219. It will be useful to refer the observations of the Division Bench of this Court.....

“Needless to mention on that any order of the judicial, quasi judicial or administrative authority has to be a reasoned order. It should be self explanatory order and should not keep the Court guessing for reasons. Reasons provide link between conclusion and evidence. The vital link is safeguard against arbitrariness, passion, prejudice and humour. The reason is a manifestation of mind of the adjudicator. It gives an opportunity to the Court to see whether or not the order is based on relevant consideration to the material on record.”

(Emphasis supplied)

5. On the backdrop of the judgment of the Division Bench of this Court as well as the judgment of the Hon'ble Apex Court referred in the order of this Court dated 30.03.2017, if the order passed by the Authority, namely, the Assistant Commissioner of Labour is perused, the order passed by the Authority dated 21.12.2016 only recall to the presence of the applicant through one Mr. Gore and counsel appearing for the non-applicant, it then refers to the submission and then the Authority states that the order is passed allowing the application seeking condonation of delay. The order clearly fails to show any reason assigned by the Authority even not in brief, such an order which fails to show any reason or fails to show the application on the mind of the Authority and ultimately fails to comply the test of this Court as observed by the Division Bench in the matter of *Digitek Krida Vikas Sanshodhan*

Va Shikshan Bahuuddeshiya Sanstha V/s. The State of Maharashtra, Through Principal Secretary Higher and Technical Education Department & Another is certainly unsustainable.

6. Learned Counsel for the respondents submits that recently she received instructions to appear on behalf of the respondent No.1 telephonically as this Court is disposing of the petition and remitting the matter back to the respondent No.2 in fresh decision, no prejudice is going to cause to respondent No.1. Learned Counsel appearing for respondent No.1 is permitted to file Vakalatnama within one week from today.

7. In the result, the petition is allowed. The order passed by the respondent No.2 dated 21.12.2016 is quashed and set aside. The matter is remitted back to respondent No.2 i.e. the Controlling Authority and Assistant Labour Commissioner, Solapur to pass an order afresh on the application seeking condonation of delay. The exercise of passing orders afresh be undertaken by respondent No.2 as expeditiously as possible and not later than three months from the date of the order of this Court. Needless to state that giving an equal opportunity of hearing to the parties.

(PRASANNA B. VARALE, J.)