

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5033 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Meelan Topkar for the petitioner

Mr.Chetan Mali for the respondent

CORAM : K. K. TATED, J.

DATE : MARCH 14, 2017

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 By this petition under Article 226 and 227 of the Constitution of India the Petitioner complainant is challenging the concurrent finding of fact recorded by both the courts below.
- 3 In the present proceeding, petitioner was working as a Secretary with the respondent. His services were terminated. Hence, he preferred the complaint (ULP) No.6 of 2003 under section 28 (i) read with item 1 (a), (b), (d) & (f) of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 before the Labour Court at Sangli. Labour Court after considering the averments of both the parties framed issue no.1(A) about maintainability

of the complaint itself which reads thus:

“Whether the respondent is an “Industry” within the meaning of Section 2-(j) of the Industrial Disputes Act and whether the complainant is a “Workman” within the meaning of Section 2-(s) of the Industrial Disputes Act, 1947?”

4 Labour Court after considering the evidence placed on record and as petitioner was working with the Co-op.Housing Society i.e. Netaji Subhaschandra Bos Sahakari Bhadekaru Hakka Grah Nirman Sanstha Limited held that complaint itself was not maintainable and hence, passed impugned judgment dated 19.8.2013 dismissing the complaint.

5 Being aggrieved by the judgment dated 19.8.2013 passed by the Labour Court, petitioner preferred Revision Application under section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Industrial Court also dismissed the Revision Application on the ground that the complaint filed by the petitioner itself was not maintainable.

6 It is to be noted that whether the complaint under the said Act is maintainable against the Co-op.Housing Society i.e. Netaji Subhaschandra Bos Sahakari Bhadekaru Hakka Grah Nirman Sanstha Limited or not, is already covered by the Division Bench of this court in the matter of *Shantaram*

Pandurang Jadhav & Ors. vs. Kiran Industrial Premises Co-op.Soc.Ltd., 2007 III CLR 418.

Following portion from paragraph 3 of the said judgment reads thus:

“Perusal of the above observations of the Supreme court shows that when employees are engaged by a co-operative society for the purpose of rendering personal service to the members of the society, the activity of the society cannot be termed as an industry and the employees also cannot be termed as workmen for the purpose of Industrial Disputes Act.”

7 Considering the concurrent finding of fact recorded by both the courts below and the law laid down by the Division Bench in the matter of ***Shantaram Pandurang Jadhav & Ors. vs. Kiran Industrial Premises Co-op.Soc.Ltd.*** (Supra), I do not find any reason to entertain the present Writ Petition. Hence, Writ Petition stands rejected.

JUDGE