

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9116 OF 2016

Force Motors Limited	]	Petitioner
Vs.		
Shri Balkrishna Gajanan Salvekar	]	Respondent

WITH

WRIT PETITION NO. 10107 OF 2016

Force Motors Limited	]	Petitioner
Vs.		
Shri Vishnu Genu Kute	]	Respondent

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Mr. Sudhir Talsania, Senior Advocate a/w Mr. Vishnu Talsania a/w
Mr. Netaji Gawade i/b Sanjay Udeshi & Co, for the petitioner.
Mr. Laukik Palekar i/b Mr. Ashwin N. Ranjane, for respondents.

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CORAM : R.G. KETKAR, J.

DATE : 27TH JUNE, 2017.

P.C.

Heard Mr. Talsania, learned Senior Counsel for the
petitioner and Mr. Palekar, learned Counsel for respondents.

2. By these Petitions under Article 226 and 227 of the
Constitution of India, the petitioner has challenged the judgment

and order dated 16th December, 2015 passed by the learned Presiding Officer, Labour Court-3, Pune [for short 'Labour Court'] in Reference (IDA) No. 416 of 2004 and Reference (IDA) No. 415 of 2004. By these orders, Labour Court held that enquiry conducted by the Inquiry Officer is not legal and fair and that findings of the Inquiry Officer are perverse.

3. Rule. Mr. Palekar waives service for respondents. In view of the narrow controversy raised in these Petitions and at the request and by consent of the parties, Rule is made returnable forthwith and the Petitions are taken up for final hearing.

4. Mr. Palekar has tendered affidavits dated 27th June, 2017 made by the respondents in both the Petitions. The same are taken on record and marked 'X Colly' for identification. Mr. Palekar further states that respondents in both the Petitions are present in the Court. He has tendered photo copies of their Aadhar cards. The same are taken on record and marked 'Y colly' for identification. Mr. Palekar further states that respondents are present. Upon taking instructions, Mr. Palekar submits that by consent of respondents, impugned orders may be set aside and

matters be remitted to the Labour Court for deciding preliminary issues afresh.

5. In support of Writ Petition No. 9116 of 2016, Mr. Talsania invited my attention to the order dated 5th September, 2003 passed by the Industrial Court below Exhibit U-2 in Complaint (U.L.P) No. 253 of 2003 as also in support of Writ Petition No. 10107 of 2016, invited my attention to the order dated 16th October, 2003 passed by the Industrial Court below Exhibit U-2 in Complaint (U.L.P) No. 205 of 2003. He submitted that though reliance was placed on these orders to contend that the said orders bind the respondents and respondents are precluded from agitating the point raised by them as regards permission to appoint Shri Madhav Roham as their defence representative, Labour Court has not dealt with this aspect at all. He, therefore, submitted that Labour Court be directed to deal with this point among other points.

6. In view thereof, by consent of the parties, impugned orders dated 16th December, 2015 passed by the Labour Court in Reference (IDA) No. 416 of 2004 and Reference (IDA) No. 415 of

2004 are set aside and the matters are remitted to the Labour Court for deciding preliminary issues afresh. It is made clear that I have not examined merits of the case. The Labour Court will deal with the contentions of the Petitioner based upon the order dated 5th September, 2003 passed below Exhibit U-2 in Complaint (U.L.P) No. 253 of 2003 as also order dated 16th October, 2003 below Exhibit U-2 in Complaint (U.L.P) No. 205 of 2003 among other contentions. All the contentions of the parties on merits are kept open. Rule is made absolute accordingly with no order as to costs.

[R.G. KETKAR, J.]