

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1827 OF 2013

Federation of the Labour Law Practitioners'
Associations Maharashtra and another. .. Petitioners
Vs
State of Maharashtra and others. .. Respondents

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Shri Dushyant Kumar along with Shri Rahul D. Oak i/b Shri A.P.
Wachasunder & Shri Rahul Oka for the Petitioners.
Shri Rohit Deo, Advocate General along with Shri P.M. Palshikar, Special
Counsel for the Respondent Nos.1 and 5 State.
Shri S.R. Nargokar for the Respondent Nos.3 and 4.
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CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATE ON WHICH SUBMISSIONS WERE HEARD : 22ND DECEMBER 2016

DATE ON WHICH JUDGMENT IS PRONOUNCED: 13TH JUNE 2017

JUDGMENT (PER A.S. OKA, J)

1. The present Petition is filed by the Federation of the Labour Law Practitioners' Association of Maharashtra for inviting attention of this Court to various issues concerning Labour Courts and Industrial Courts in the State and infrastructure provided to the said Courts in the State. The learned counsel appearing for the Petitioners at the outset stated that now only the prayer clauses (iii) and (v) survive for consideration which read thus:-

- “(iii) Direct the respondents to appoint appropriate committee to examine the conditions and other infrastructure of the Labour and Industrial Courts and its accommodation in the Government Buildings wherever Labour and Industrial Court are located in the State in the interest of justice;
- (v) Direct respondents to consider the representations submitted by the Labour law Practitioners Association Akola, Buldana and Kolhapur EXHIBITS-P”.

2. We have heard the learned counsel appearing for the Petitioners on various issues concerning infrastructure of the Labour and Industrial Courts in the State. In terms of the directions issued on 25th November 2016, an affidavit of Shri Ganesh Shamrao Sonawane, the Deputy Secretary of the Government of Maharashtra, Industries, Energy and Labour Department, dated 17th December 2016 is tendered across the bar. A copy of the Circular dated 3rd June 1977 is also tendered across the bar by which the Government has laid down the norms for the premises for Industrial Courts and Labour Courts. We have also heard the learned Advocate General appearing for the State.

3. The affidavit of Shri Ganesh Shamrao Sonawane records that there are 36 Industrial Courts in the State of Maharashtra situated in 20 Districts and 49 Labour Courts are situated in 29 Districts. The said affidavit also records the details of the Industrial and Labour Courts functioning in the Government buildings/premises and the

Industrial Courts and Labour Courts functioning in private premises on rental basis. The said information regarding infrastructure provided in the said affidavit reads thus:-

“Industrial Courts and Labour Courts functioning in the Government Building/Premises.

Sr.No.	District	No.of Courts	Area (Sq.Ft.)
1	Mumbai	20	31234
2.	Thane	7	10639
3.	Kolhapur	4	10041
4.	Aurangabad	3	6000
5.	Jalna	2	4361
6.	Nagpur	9	32412
7.	Yawatmal	2	5100
8.	Chandrapur	2	12412
9.	Vardha	1	1649

Industrial Courts and Labour Courts functioning in the Private Premises on Rental Basis.

Sr.No.	District	No.of Courts	Area (Sq.Ft.)
1.	Pune	6	13968
2.	Nashik	3	7362
3.	Solapur	2	5500
4.	Sangli	2	4361
5.	Satara	2	4535
6.	Bhandara	2	5630
7.	Akola	2	6540
8.	Amravati	2	5136

9.	Buldhana	1	2100
10.	Gondiya	1	2400
11.	Dhule	2	4080
12.	Ahmednagar	3	12597
13.	Latur	2	5070
14.	Jalgaon	2	3800
15.	Nanded	1	2200
16.	Mahad	1	2010
17.	Ratnagiri	1	2013”

4. In the case of *State of Maharashtra Vs. Labour Law Practitioners' Association and Others*¹, the Apex Court held that the Industrial Courts and Labour Courts decide disputes which are of civil nature and they perform judicial functions. Their duty and function is to dispense justice to a common man.

5. As far as the infrastructure of Courts is concerned, recently a Division Bench of this Court to which one of us (A.S.Oka, J) is a party, delivered a Judgment and Order dated 5th May 2017 in Public Interest Litigation No.156 of 2011 and other connected Writ Petitions/PILs. As observed in the said Judgment and Order, the principles laid down therein are applicable to the Industrial and Labour Courts as well. The Clauses (A) to (D) of the operative part of the said Judgment and Order read thus:-

1 (1998)2 SCC 688

“A] We hold that:

- (a) It is the constitutional obligation of the State Government to provide lands and/or adequate premises for establishing adequate number of Courts;
- (b) It is an obligation of the State Government to appoint sufficient number of Judicial officers consistent with pendency and filing in the concerned Courts and Tribunals. The cadre strength should be such that there will be no pendency of old cases;
- (c) It is the obligation of the State Government to provide all necessary infrastructure to the newly established as well as the existing Courts and Tribunals for the benefit of the Judicial Officers, litigants, members of the staff as well as members of the Bar;
- (d) The infrastructure has to be provided in such a manner that the Courts are able to function efficiently;
- (e) The infrastructure has to be consistent with the concept of dignity of the Court;
- (f) Speedy disposal of cases in consonance with the mandate of Article 39A of the Constitution of India cannot be achieved unless adequate number of Courts and Tribunals are established and adequate and proper infrastructure is provided to all the Court premises;
- (g) Financial constraints is no ground to deny permission for establishing new Courts and denying essential infrastructure to all the Courts, whether existing or new.

These principles will apply to all Civil and Criminal Courts in the State, Co-operative Courts and Maharashtra State Co-operative Appellate Court, State Commission and District Forum under the Consumer

Protection Act, 1986, the Motor Accidents Claims Tribunals under the Motor Vehicles Act, 1988 as well as Labour and Industrial Court;

B] The State shall sanction requisite number of additional posts of Judges as directed in the decision of the Apex Court in the case of ***Imtiyaz Ahmad v. State of U.P. & Others***. We hold that the principles laid down in the said decision deserve to be applied for determining the Judge/member strength of the aforesaid Tribunals as well;

C] As directed by the Apex Court in the decision in the case of ***Imtiyaz Ahmad v. State of U.P. & Others***, the State Government shall ensure that the funds allocated under the 14th Finance Commission for the years 2015-2020 to the Judiciary in Maharashtra are promptly released. The funds set out under the heads I to VIII as mentioned in the case of ***Imtiyaz Ahmad*** shall be released. We clarify that the funds to be released under 14th Finance Commission are independent of the regular funds required by the Judiciary. The allocated funds under heads I to VIII shall be released over and above the regular funds required by the Judiciary. The funds shall be released as expeditiously as possible considering the fact that the period of two years out of the period of five years has already expired;

D] We hold that the principles laid down by this Court in the decision in the case of ***New Bombay Advocates' Welfare Association*** and other connected matters, will squarely apply to the Civil and Criminal Courts including the Family Courts, Motor Accident Claims Tribunal, Co-operative Courts and Co-operative Appellate Court, Labour and Industrial Courts and State Commission and District Forum under the said Act of 1986. Thus, it is an obligation, both constitutional and legal, of the State to provide adequate infrastructure to the aforesaid Courts and Tribunals. The essential ingredients of infrastructure are the adequate number of Judicial Officers/Members and staff, adequate space for Courts and Tribunals and their offices, necessary facilities and amenities for Members of the Bar, Litigants and Witnesses. It includes the facility of well maintained quarters to those Judicial

Officers who are entitled to it under their service conditions. It follows that the facilities such as adequate remuneration and allowances, transport arrangement, etc. ought to be provided for the benefit of the Judges/Judicial Officers/Members of the Tribunals. Facilities such as proper sitting arrangements, clean and equipped washrooms/toilets (separate for men and women), supply of clean drinking water, information kiosks etc. ought to be made available to the litigants and witnesses. The members of the Bar need adequate Bar rooms with necessary facilities. Moreover, all the stakeholders have a right to have clean Court premises. As held in the aforesaid decisions, the financial constraints is no ground to deny essential infrastructure.”

6. Apart from the aforesaid directions, the directions contained in Clauses [J] to [T] of the operative part of the said Judgment and Order squarely apply to the Industrial and Labour Courts in the State of Maharashtra and, therefore, the said directions will have to be implemented as far as Industrial and Labour Courts in the State are concerned within the time stipulated under the said Judgment and Order.

7. The directions contained in Clause [W] of the operative part of the said Judgment and Order reads thus:-

“W] Direction regarding providing Government/ Public lands or public properties for all Court Complexes:

Wherever the Court Complexes in the State are in the private properties taken on rental basis, the State Government shall initiate process of identification of

Government lands/Government properties for housing Court Complexes. This process shall be completed as expeditiously as possible and preferably within a period of one year from today.”

8. The direction contained in Clause W is relevant in case of Industrial and Labour Courts. Out of 85 Industrial and Labour Courts, 35 are functioning in the private premises taken on rent. In the affidavit of Shri Ganesh Shamrao Sonawane, in Paragraphs 4 and 5, it is stated thus:-

“4. I say that there are various difficulties and problems faced by us for the rental premises. For example in the District Jalgaon, there are problems of supply of drinking water and maintenance of Court premises with regard to the repairs and painting etc. The Administration of the Industrial Court has written various letters to the Jalgaon Nagarpalika for the proper maintenance of the said premises being Landlord of the premises, however, no proper steps have been taken by them. In the District at Dhule, there is a dispute as regards to the ownership of the premises and therefore the present Landlord is not accepting the rent from the Government and as a result he is not providing any facilities for the said Court. In Solapur there is no parking facilities for the said Court. IN Solapur there is no parking facilities available for the litigants and the Lawyers who are visiting the Courts. In Akola the Courts are shifted into the new premises in the year 2015 and there is no parking facilities or the drinking water facilities for litigants and Lawyers. I say that similar problems are faced at Nashik, Bhandara and Nanded. I say that in Gondiya District there are no toilets or washrooms available for the Courts staff, Judges and litigants.

5. I say that as regards to the Quarters for Judges, there is no assigned Quarters for in all the Labour Courts and Industrial Courts Judges. However, they are accommodated in the designated Government Common Pool quarters. I say that at present out of 73 Judicial Officers 38 Officers have been allotted the designated Government Quarters and remaining 35 Judicial Officers have been accommodated in private premises on rental basis where the Government reimburse the rent paid by them to the Landlords.”

(Underlines supplied)

9. Various difficulties faced by the learned Judges of the Industrial and Labour Courts, the members of the bar, members of the staff and litigants have been set out in Paragraph 4 of the said affidavit especially in case of Industrial and Labour Courts which are situated in the rental premises. The directions issued in PIL No.156 of 2011 and other connected matters will have to be implemented even in respect of the Courts housed in rented premises. However, immediate steps will have to be taken by the State Government to locate the Government plots/premises/buildings for the Industrial and Labour Courts. An endeavour will have to be made to find out Government lands and/or premises for each Industrial and Labour Courts which are functioning in rental premises within a period of one year from today and all the Industrial and Labour Courts will have to be shifted to Government owned premises as expeditiously as possible and in any case, within a period of five years from today.

10. The State Government will have to take steps for providing designated/assigned quarters to all the Judges of the Industrial and Labour Courts. Necessary steps will have to be taken within a period of five years from today.

11. In relation to the Labour and Industrial Courts mentioned in Paragraph 4 of the affidavit of Shri Sonawane which we have quoted above, the State Government will have to take necessary steps. As far as the Court premises in Jalgaon are concerned, the State Government will have to issue directions to Jalgaon Municipal Council to immediately undertake repairing/painting work of the Court premises.

12. We, therefore, dispose of this Petition by passing the following order:

ORDER :

- (a) We hold that the directions contained in the operative part of the Judgment and Order dated 5th May 2017 in Public Interest Litigation No.156 of 2011 and other connected Writ Petitions/PILs shall also apply to the Industrial and Labour Courts in the State of Maharashtra;

- (b) We direct that the directions contained in Clauses [J] to [T] of the operative part of the Judgment and Order dated 5th May 2017 passed in PIL No.156 of 2011 and other connected Petitions/PILs shall be implemented in case of all the Industrial and Labour Courts in the State. The directions contained in the aforesaid clauses [J] to [T] shall be implemented within the time frame provided in the said Judgment and Order dated 5th May 2017. As far as Labour and Industrial Courts are concerned, the time frame shall be computed from the date of this judgment;
- (c) We clarify that implementation of the directions contained in the said Judgment and Order dated 5th May 2017 in relation to the rental premises in which Industrial and Labour Courts situate, shall be made to the extent to which the respective landlords of their premises cooperate. If the landlords decline to cooperate, the State Government shall take all lawful steps against the landlords;
- (d) We direct the State Government to undertake exercise of identifying Government

plots/premises/buildings for accommodating all the Industrial and Labour Courts which are housed in rental premises. The exercise of identifying Government plots/premises/buildings for all the Industrial and Labour Courts housed in the rental premises shall be completed as expeditiously as possible and preferably within a period of one year from today. While identifying Government lands/plots/premises, the State Government shall take into consideration even the future need for a period of 25 years;

- (e) The High Court Administration will supply norms fixed for the size of Civil and Criminal Courts in the State to the Principal Secretary of the Industries, Energy and Labour Department of the State Government within a period of one month from today;
- (f) The norms fixed for the size of the designated quarters for the Judicial Officers in the State shall be also supplied by the High Court Administration within the same time to the said Principal Secretary;

- (g) The State Government shall take a final decision on the norms for the size of the Industrial Courts and Labour Courts in the State and the size of the designated quarters for the Judges of the Industrial and Labour Courts in the State within a period of six months from today. Needless to add that before finalizing the norms, the State Government shall consult the President of the Industrial Court, the Principal Secretary of the Law & Judiciary Department and the Registrar General of this Court;
- (h) The State Government shall ensure that all the Court Complexes of the Labour and Industrial Courts in the State are shifted to the Government owned premises of appropriate size not later than five years from today;
- (i) The designated Government quarters shall be made available to the Judges of the Industrial and Labour Courts in the State within a period of five years from today;

- (j) The State Government shall take all possible remedial steps in respect of the Industrial and Labour Courts on the aspects mentioned in Paragraph 4 of the affidavit of Shri Ganesh Shamrao Sonawane for ensuring that all the essential facilities are made available within a period of one year from today. The State Government shall issue directions to the Jalgaon Municipal Council enjoining the said Council to take immediate steps to carry out necessary repairs to the Industrial and Labour Courts at Jalgaon. Such directions shall be issued within a period of one month from today;
- (k) Rule is made partly absolute on above terms;
- (l) This Petition shall be listed for reporting compliance along with PIL No.156 of 2011 and other connected Petitions/PILs.

(SMT. ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)