

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**ORDINARY ORIGINAL CIVIL JURISDICTION
AND
IN ITS ORDINARY INHERENT CONSTITUTIONAL
JURISDICTION**

WRIT PETITION NO. 2461 OF 2016

M/S. BHARATI AIRTEL SERVICES LTD.] Petitioner

Vs.

MR. BAKSHU HUSSAIN SHAIKH] Respondent

WITH

WRIT PETITION NO. 2462 OF 2016

M/S. BHARATI AIRTEL SERVICES LTD.] Petitioner

Vs.

MR. MAHESH MADHUKAR KADAM] Respondent

WITH

WRIT PETITION NO. 2463 OF 2016

M/S. BHARATI AIRTEL SERVICES LTD.] Petitioner

Vs.

MR. VISHAL VIJAYKUMAR SARATE] Respondent

WITH

WRIT PETITION NO. 2465 OF 2016

M/S. BHARATI AIRTEL SERVICES LTD.] Petitioner

Vs.

MR. DHARMENDRA KHETWAL] Respondent

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Mr. S.K. Talsania, Senior Advocate a/w Mr. R.N. Shah a/w Mr. Netaji Gawade i/b M/s. Sanjay Udeshi & Co., for petitioners.

Mr. Mayuresh Dilip Modgi, for respondents in all the Writ Petitions.

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CORAM : R.G. KETKAR, J.

DATE : 3RD JULY, 2017.

P.C.

Heard Mr. Talsania, learned Senior Counsel for petitioners and Mr. Modgi, learned Counsel for respondents in all the Petitions at length. Rule. Mr. Modgi waives service on behalf of the respondents. Having regard to the narrow controversy raised in these Petitions as also at the request and by consent of the parties, Rule is made absolute forthwith and Petitions are taken up for final hearing.

2. By these Petitions under Article 226 of the Constitution of India, petitioners have challenged the judgment and order dated 5th February, 2014 passed by 4th Labour Court, Mumbai in Complaint (ULP) No. 194 of 2012 as also the judgment and order dated 29th June, 2016 passed by the Member, Industrial Court, Mumbai in Revision Application (ULP) No. 75 of 2014. By these orders, the Courts below allowed the application made by the respondents [hereinafter referred to as 'complainants'] seeking direction against the petitioners to produce:

- [1] Wage Registers and Attendance Registers for the period from 1st April, 2011 to 31st August, 2012.
- [2] Minutes Book maintained by the petitioners as per the provisions of the Companies Act, 1956.

3. Petitions were argued for quite some time. Upon taking instructions, Mr. Talsania states that petitioners do not maintain Attendance Register and they will produce Wage Registers for the period from 1st April, 2011 to 31st August, 2012. Statement made by Mr. Talsania is recorded. He submitted that respondents sought production of Minutes Book to establish that termination letters issued were signed by the person who was not authorized. He submitted that petitioners will lead evidence at appropriate stage to substantiate their case that termination letters were signed by the person who was duly authorized.

4. Mr. Talsania submitted that there is serious dispute as to whether petitioners is a factory as contemplated by section 2 (m) of the Factories Act, 1948 as also whether the provisions of Chapter VB of the Industrial Disputes Act, 1947 are applicable to the petitioners or not. He submitted that Labour Court may be directed to decide these issues uninfluenced by the observations made in the impugned orders.

5. In view thereof, petitioners shall produce Wages Register as above and the Labour Court will permit the parties to adduce evidence on the above two issues and decide:

[1] Whether petitioners is a Factory as contemplated in
Section 2(m) of the Factories Act, 1948?

and

[2] Whether Chapter VB of the Industrial Disputes Act,
1947 is applicable to the petitioners?

6. The petitioners will also adduce evidence at appropriate stage to establish that termination letters were signed by the person who was authorized. Labour Court will decide the issues uninfluenced by the observations made in the impugned orders. Impugned orders are modified accordingly. Rule is made absolute in all the Petitions with no order as to costs.

[R.G. KETKAR, J.]