

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9441 OF 2017

Charbhai Bidi Works and others.
VERSUS
Ashok Govindrao Pattekar and another.

**WITH
WRIT PETITION NO.9442 OF 2017**

Charbhai Bidi Works and others.
VERSUS
Sunita Madhavrao Nurewar and another.

**WITH
WRIT PETITION NO.9443 OF 2017**

Charbhai Bidi Works and others.
VERSUS
Mayawati Sanjay Inguldas and another.

**WITH
WRIT PETITION NO.9444 OF 2017**

Charbhai Bidi Works and others.
VERSUS
Sheela Shriram Sunkewar and another.

**WITH
WRIT PETITION NO.9445 OF 2017**

Charbhai Bidi Works and others.
VERSUS
Dilip Hiranman Suryawanshi and another.

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Advocate for the Petitioners : Shri Natu Sharad V.
Advocate for Respondent 1 : Shri Pravin G. Patil h/f Shri A.B.Gaikwad
(Patil).

AGP for Respondent 2 : Shri B.A.Shinde.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th June, 2018

Per Court:

1 Leave to add the Assistant Labour Commissioner -cum- Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 as Respondent No.2 in all these petitions. Addition be carried out forthwith. The learned AGP causes an appearance on behalf of the added Respondent No.2 and he is prepared to address the Court on the basis of the available records.

2 By the consent of the parties, these matters have been heard finally at the admission stage.

3 The Petitioner Establishment is aggrieved by the orders dated 28.04.2017 passed by Respondent No.2/ Assistant Labour Commissioner in the proceedings under Section 31 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (for short "the Beedi Act").

4 I have heard the submissions of the learned Advocates for the respective sides.

5 The learned Advocate for the Respondents/ workers has strenuously defended the impugned orders. It is vehemently contended that all these petitions be dismissed with heavy costs.

6 Considering the factors on the basis of which, I am remitting the matters to Respondent No.2/ Assistant Labour Commissioner -cum- Appellate Authority, Nanded under the Beedi Act, I am not required to advert to the entire submissions of the litigating sides since it would lead to certain observations being made in this order and such observations might prejudice either of the sides.

7 There is no dispute that the Respondents/ Employees led evidence by tendering their examination-in-chief on 06.08.2016. On 23.08.2016, the Petitioner/ Management cross examined the workers. The hearing was then posted to 07.09.2016 and the stage shown was that the oral arguments of the litigating sides would be heard.

8 The learned Advocate for the Petitioner has strenuously submitted that the Petitioner also has a right to lead evidence. The added Respondent No.2 in these petitions could not have deprived the Petitioner of this opportunity as it is its legal right.

9 Despite the above, the learned Advocate for the Respondents/ workers is justified in contending that if the Petitioner felt that it was deprived of an opportunity to lead evidence, it should have promptly filed an application on 07.09.2016 or even on 22.09.2016 and prayed for

leading evidence. The matter was adjourned on 07.09.2016, 22.09.2016, 27.09.2016 and 01.10.2016 before the final arguments were advanced by the parties on 15.10.2016.

10 The learned AGP appearing on behalf of the added Respondent No.2 submits that if the Petitioner would have made a formal request for leading evidence, the said opportunity could have been granted to the Petitioner.

11 Considering the above submissions, it needs to be concluded that the Petitioner had a legal right to lead evidence and such right could not have been taken away until the Petitioner tendered a purshis declaring that it did not desire to lead oral evidence. In this fact situation, a valuable right to lead evidence and contradict the claims of the workers, has been taken away, causing a grave prejudice and manifest inconvenience to the Petitioner Management. If this aspect is countenanced, it would cause an irreparable loss to the Petitioner.

12 Considering the above, these Writ Petitions are partly allowed. The impugned orders dated 28.04.2017 delivered in Appeal Nos.B&C/NED-4/2015, 8/2015, 6/2015, 5/2015, and 7/2015, respectively, are quashed and set aside and these Appeals are remitted to the office of Respondent No.2 with the following directions :-

- (a) All the litigating sides would appear before Respondent No.2/ on 13.07.2018 at 03:00 pm. The Petitioner would tender

its affidavit in lieu of examination-in-chief in all these matters on the said date. The Petitioner would be at liberty to lead evidence through one person in all these matters since an identical issue is involved.

- (b) The original Applicants/ workers are at liberty to cross examine the Management Witness and a common cross examination on behalf of all workers is permitted.
- (c) After the Management closes its evidence, the litigating sides would be at liberty to advance oral submissions and also file their written notes of arguments, if so desired.
- (d) Considering that the issue of wages of the original Applicants/ workers is involved, Respondent No.2 would decide these Appeals in any case on or before 31.10.2018.