

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12652 OF 2018

(Appasaheb Ramrao Shinde and another Vs. The Chairman and
others)

IN

WRIT PETITION NO.6866 OF 2018

WITH

CIVIL APPLICATION NO.12653 OF 2018

IN

WRIT PETITION NO.6864 OF 2018

WITH

CIVIL APPLICATION NO.12654 OF 2018

IN

WRIT PETITION NO.6869 OF 2018

WITH

CIVIL APPLICATION NO.12655 OF 2018

IN

WRIT PETITION NO.6865 OF 2018

WITH

CIVIL APPLICATION NO.12656 OF 2018

IN

WRIT PETITION NO.6868 OF 2018

Mr.H.U.Dhage, Advocate for the applicants.

Mr.S.T.Shelke, Advocate for respondent Nos. 1 and 2 (For the
petitioners in writ petition.)

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/10/2018

PER COURT :

1. In all these civil applications, the two applicants, claim to be
the Directors of the respondent/Society. There are in all 23
Directors.

2. By these applications, these applicants desire to intervene in the pending writ petitions wherein the employer/society has challenged the judgments of the Industrial Court delivered in four ULP complaints filed by 4 original complainants by which, the Industrial Court has granted permanency to the said complainants w.e.f. 01/01/2017.

3. These applicants contend that the Chairman of the Society and the Secretary have formed a majority group. These two applicants are in minority. The majority is appointing employees in the said society by selecting their relatives or acquaintances. The procedure for appointment is not been followed. This majority group instigated the original complainants to approach the Industrial Court and file ULP Complaints for seeking permanency. Sufficient evidence was not adduced and hence the Industrial Court has allowed the complaints and granted permanency to the respondents.

4. Learned Advocate appearing on behalf of the petitioner/ Management has opposed these applications by questioning the locus-standi of these two persons.

5. In my view, the proceedings under the MRTU and PULP Act, 1971 are such wherein workers can raise individual causes of action or can come together and espouse their cause collectively or by formation of a Union. Schedule II, III and IV pertain to unfair labour practices. In this backdrop, it has to be considered as to who is the appointing authority of such workmen and the appointment authority under the Law would be the respondent.

6. The applicants are two Directors amongst the 23. It does not appear from the record that there are two warring groups amongst these 23 Directors. It also does not appear that two groups are claiming to be the chair person or the secretary or the office bearers of the Society. It, therefore, indicates that these applicants are two Directors who are in minority and are opposing the mandate of the majority.

7. When the writ petitions filed by the Management Society challenging the judgment of the Industrial Court would be considered, this Court would surely assess as to whether the Law of completion of 240 days in continuous employment would be applicable and if it is pointed out that the Society has an inbuilt mechanism for following a particular process of selection and

appointment, it would be scrutinized as to whether such a procedure was followed or not.

8. Learned Advocate for the applicant relies upon the judgment of the Hon'ble Apex Court in the matter of Shubham Bahuuddeshiya Sanstha, Waddhamana and another Vs. Dnyaneshwar Govindrao Daigavhane and others [(2017) 8 SCC 409], wherein the dispute between two warring groups with internal squabbles was considered. The Hon'ble Apex Court concluded that the High Court would consider the merits involved in the writ petition and would not be swayed by the internal squabbles and differences between the rival groups. The observations of the Apex Court in paragraph No.25 of the said judgment read as under :-

“25. We, however, consider it apposite to make it clear that the writ Court would only decide the main question which is involved in the writ petition as to whether the order passed by the School Tribunal, which is impugned by the writ petitioner (respondent No.1) is legally sustainable or not? Depending upon the outcome of the writ petition, consequential orders would be passed.

We also make it clear that the writ Court would consider the Management (employer) to be the contesting respondent who would be supporting the order of the Tribunal and opposing the writ petition. We also make it clear that the writ Court would not

probe 13 into any internal issues arising between these warring groups of Managing Committee of the School nor they would be allowed to take inconsistent stand qua the writ petitioner except the one mentioned above.

We also make it clear that we have not gone into the merits of the controversy which is subject-matter of writ petition before the High Court and hence writ court would decide the writ petition strictly in accordance with law on merits uninfluenced by any observations made in this order.”

9. In view of the above, these applications are devoid of merit and stand rejected.

(Ravindra V.Ghuge, J.)