

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

15. WRIT PETITION No. 13238 OF 2018

Muktabai Ambadas Dongre

... Petitioner

Versus

The School Administration Committee,

Z.P. School, Bhilpuri Tal. & Dist. Jalna and others ... Respondents

Mr. V.P. Golewar, Advocate for petitioner

Coram : N.M. Jamdar, J.

Date : 3 December 2018.

ORAL ORDER:

1. By this petition, the petitioner has challenged the order passed by the Industrial Court, Jalna, in Revision (ULP) No. 25 of 2017 allowing the revision and setting aside the order passed by the Labour Court, Jalna, in Complaint (ULP) No. 3 of 2016 dated 24 March 2017 and remanding the proceedings to the Labour Court, Jalna.

2. The petitioner has filed the Complaint (ULP) No. 3/2016

in the Labour Court, Jalna, under Section 28(1) Schedule IV Item No.1 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The petitioner has prayed that her termination be quashed and set aside and respondents i.e. the Zilla Parishad authorities be directed to re-instate the petitioner in service with continuity and full back wages.

3. The Labour Court had allowed the complaint by order dated 24 March 2017. In the Revision, the Industrial Court held that whether the activity carried out by the respondents-Zilla Parishad of monitoring the mid-day meals scheme by the State Government, wherein the petitioner is working as 'cook', could be called as 'industry' was an issue not considered and neither framed by the Labour Court and, therefore, the matter needs to be remanded.

4. According to the learned Counsel for the petitioner, if the issue was not framed by the Labour Court, the respondents should have insisted upon the same and there are various documents which will show that the scheme can be termed as industry.

5. The question whether the activity can be termed as industry will entail inquiry on facts. This issue goes to the root of the

jurisdiction of the Labour Court. Admittedly, the Labour Court has not framed the issue and the parties have not led evidence. The Industrial Court was, therefore, right in holding that in the revisional jurisdiction it could not decide this question at the first instance and therefore, the matter was remanded. There is no error of jurisdiction. The issue indeed is a jurisdictional issue, which needs to be decided by the Labour Court.

6. The learned Industrial Court has already directed that the issues be recast and further evidence be led. The Labour Court will make an endeavour to dispose of the complaint within a period of one year from today, if there are no earlier time bound commitments.

7. All contentions of the parties on the issues so framed and other issues are kept open.

8. The writ petition is accordingly disposed of.

N.M. Jamdar, J.