

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1434 OF 2018

M/s.G.R.S. Shelter Pvt.Ltd. & Ors.

...Petitioners

Vs.

Mr.Chandrashekhar B. Singh

...Respondent

Mr.A.S. Khandeparkar with Amogh Karandikar I/b. Khandeparkar & Associates for Petitioners.

Ms.Purnata Ravjani I/b. H. Kumar Vaidyanathan for Respondent.

CORAM : S.C. GUPTE, J.

DATE : 30 JULY 2018

P.C. :

Heard learned Counsel for the parties. Rule. Rule taken up forthwith for hearing, with consent of Counsel.

2 This petition basically challenges an order passed by the Labour Court at Mumbai in a complaint of unfair labour practice. The complaint is under Items 1(a), (b), (d) and (f) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The impugned order is passed on a miscellaneous application in that complaint. The controversy concerns a certain document produced by the complainant, which, according to the complainant, is a certificate issued by the Petitioners herein, who are Respondents to the complaint, concerning the employment of the complainant. This document could not be exhibited when it was produced. What was produced at that time was a photocopy of that document. The complainant made an

application subsequently after closure of evidence that the complainant was willing to file the original document before the court. The application was allowed by the Labour Court. This order is challenged by the Petitioners on the ground that the application was allowed without hearing the Petitioners or without allowing them to file their say on the application. Learned Counsel submits that the application was even not served on the Petitioners.

3 Learned Counsel for the Respondent could not point out from the record of the case that the application was, in fact, served on the Petitioners. Learned Counsel, however, submits that relying on the roznama of the case that for a few dates the Petitioners were absent and the present attempt is nothing but to delay the proceedings. Even if it is true that on four dates in the month of September 2017, the Petitioners and their advocates were absent, the fact of the matter is that the order was passed against the Petitioners on the ground that there was no say filed by them to the application in spite of sufficient opportunity. When the record of the case does not bear out that the application was served on the Petitioners, there is no question of holding against the Petitioners on the ground that they had not filed their say to the application. The record indicates that they had not any opportunity to do so.

4 In the premises, the impugned order of the Labour Court dated 25 September 2017 is quashed and set aside and the matter is remanded to the Labour Court for a fresh hearing on the application. The Labour Court shall permit the Petitioners herein to file their say on the application and thereafter expeditiously dispose of the miscellaneous application.

5 The writ petition is disposed of by keeping all rights and contentions of the parties on merits of the application open.

(S.C. GUPTE, J.)