

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12366 OF 2019
(M/s Ambica Printers and Publications Vs. Mira Nitin Shinde)

Mr.S.V.Dankh, Advocate for the petitioner.
Mr.P.V.Barde, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 14/11/2019

PER COURT :

1. The petitioner/Establishment is aggrieved by the order dated 07/08/2019 passed by the Labour Court, Ahmednagar vide which, application Exhibit U-6 filed by the respondent second party in Ref.IDA No.14/2019, seeking production of documents, has been allowed.

2. I have considered the submissions of the learned Advocates for the respective sides. The respondent has strenuously opposed this petition and submits that the same is without merit and deserves to be dismissed with costs.

3. I find from the record that by the reference order conveyed to the Labour Court vide communication dated 20/02/2019 by the

Deputy Commissioner, Labour, Nasik the classification of the petitioner and consequentially the wages payable as per the Majithia Wage Board Recommendations u/s 17 of the Working Journalist and Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955, has been sought.

4. There is no dispute that the issue in the reference case would fall u/s II of Chapter - XIX Recommendations of the Majithia Wage Boards for Working Journalists and Non-Journalist Newspaper Employees in Newspaper Establishments (Other than the News Agencies). It is equally undisputed that under Item 3 u/s 2 pertaining to Classification of newspaper Establishments and Grouping of Newspaper Employees, the average gross revenue of 3 accounting years 2007-08, 2008-09, 2009-2010 is necessary for the fixation or revision of rates of wages of the newspaper employees. The issue of reclassification under Item 6 is not the subject matter of the reference proceedings.

5. The petitioner/Management tendered its reply to Exh.U-6 on 07/08/2019. It was categorically stated that the balance sheet for the 3 accounting years 2007 upto 2010 containing the gross turn

over as well as unit wise turn over, has already been placed before the Court. The income tax returns for the years 2006 to 2018, the balance sheet even from 2010 to 2018 and the profit and loss statement for the period 2006 to 2018 are not necessary.

6. It is now well settled in the light of the decision of this Court in the matter of 20th Century Fox Corporation India Private Limited Vs. F.H.Lala [1975 Mh.L.J.273 : 1974(2) LLJ 156 (Bom.)] and also in the matter of Ramesh Tapade Vs. Bajaj Auto Ltd., [1999 I CLR 1007] that a direction to produce documents cannot be issued at the mere askance. The exclusivity of custody of documents and the nexus of the documents with the pending proceedings, has to be assessed before issuing a direction to a party to produce documents.

7. I find from the Majithia Wage Board Recommendations that the wage fixation of the second party would be on the basis of the classification of the petitioner based on the average gross revenue of 3 accounting years from 2007 to 2010. In this context, the petitioner has already deposited a certificate issued by the Chartered Accountants dated 07/08/2014 indicating the unit wise gross revenue as well as the gross revenue of the entire petitioner / establishment for the 3 financial years. Specific details as regards

the advertisement sales, circulation Sales and other sales and the total revenue for the 3 accounting years, unit wise and company wise has also been placed on record.

8. I do not find that the direction of the Labour Court to produce the documents sought upto 2018 based purely on the ground that the documents are available in the custody of the Management, is well placed. There is no necessity to seek the profit and loss statement for any year and the income tax returns for all the years. The documents produced by the petitioner considering the list of documents dated 07/08/2019 filed before the Labour Court, would be sufficient and germane to the cause of action before the Labour Court.

9. This petition is, therefore, allowed. The impugned order dated 07/08/2019 is quashed and set aside in view of the documents already produced by the petitioner before the Labour Court vide the list of the documents dated 07/08/2019.

(Ravindra V.Ghuge, J.)