

**FARAD CONTINUATION SHEET No.**  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO. 2740/2017**

(SHRIKRISHNA MAROTRAO BONDADE **VERSUS** M/S SPENTEX INDUSTRIES LIMITED (FORMERLY  
INDORAMA TEXTILES LTD.), NAGPUR)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri S.G. Nighot, counsel for petitioner.  
Shri S.G. Zinjarde, counsel for respondent.

**CORAM : A.S. CHANDURKAR, J.**

**DATE : NOVEMBER 11, 2019.**

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length.

The petitioner is the original complainant who has filed a complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'the Act of 1971) challenging the order of dismissal dated 06.07.2011 issued by the respondent herein. This order of dismissal was preceded by a departmental enquiry held by the respondent herein. In the said complaint preliminary issue as to the legality of the enquiry proceedings and the aspect whether the findings of the Enquiry Officer were perverse came to be framed. The petitioner led evidence in support of his stand. The learned Judge of the Labour Court by his order dated 28.11.2013 held that the enquiry conducted was not fair and proper. Similarly, the findings of the Enquiry Officer were held to be perverse. On that count, liberty was granted to the respondent to prove the misconduct by leading evidence. This order was challenged by the respondent by filing a revision application before the Industrial Court. By the impugned order dated 10.11.2016, the learned Member of the Industrial Court was pleased to hold that the enquiry conducted by the respondent was fair and proper. The

Labour Court was thus directed to decide the issue with regard to perversity of findings by giving due opportunity to the parties. Being aggrieved, the original complainant has challenged the aforesaid order.

Shri S.G. Nighot, learned counsel for the petitioner submitted that the failure to supply copy of the Model Standing Orders to the petitioner despite the same being demanded had the effect of vitiating the enquiry proceedings. Failure to supply those documents resulted in denial of proper opportunity to the petitioner to protect his interests in the enquiry proceedings. It was submitted that in view of provisions of Section 9 of the Industrial Employment (Standing Orders) Act, 1946 (for short, 'the Act of 1946'), it was necessary for the employer to post the text of the standing orders applicable in a language understood by majority of workmen on a special board maintained for that purpose. Since there was non-compliance with this part of the statutory requirement, the Labour Court was justified in holding that due opportunity was not given to the petitioner and the same had vitiated the enquiry proceedings. It was thus submitted that the Industrial Court committed an error in setting aside the well reasoned order passed by the Labour Court.

Shri S.G. Zinjarde, learned counsel for the respondent on the other hand submitted that the Industrial Court rightly found that no prejudice whatsoever had been pointed out by the petitioner if the same was caused to him by non-supply of the said Model Standing Orders. Referring to the charge-sheet that was issued to the petitioner, it was submitted that the same referred to Clauses 24(a) and 24(l) of the Model Standing Orders which had been duly translated in the said charge-sheet. Since the respondent had referred to the relevant clauses in the charge-sheet which was

issued to the petitioner in the language understood by him, there was no basis for the petitioner to contend that a copy of the Model Standing Orders was not supplied to him. He referred to the decision in *National Organic Chemicals (RCD) Limited & Another Versus Pandit Ladaku Patil* [2008 III CLR 716] and submitted that it was necessary for the petitioner to have demonstrated some prejudice caused to him by failure on the part of the respondent to supply the copies of the standing orders. The learned counsel therefore submitted that there was no reason to interfere with the impugned orders.

I have heard the learned counsel for the parties at length and I have perused the documents placed on record. Copy of the charge-sheet alongwith accompanying material was also tendered for perusal. As per the statement of allegations and suspension order dated 13.11.2009, the respondent had by referring to Clauses 24(a) and 24(l) of the Model Standing Orders proceeded to suspend the petitioner from service. In that communication there is a reference to the translated version of the said two Clauses that were invoked by the Management. It is found that since the material sought to be relied upon by the Management in the form of Clauses 24(a) and 24(l) as duly translated were communicated to the petitioner, he was aware of the allegations levelled against him under the Standing Orders.

In *National Organic Chemicals (RCD) Limited* (supra), it has been held by the Division Bench of this Court that when the aspect of prejudice being caused is sought to be put forth, it needs to be indicated by necessary averments and some material in that regard. Merely stating that prejudice was caused on account of failure to comply with certain provisions would not by itself be sufficient. As stated above in the statement of allegations, the

respondent has referred to the translated version of Clauses 24(a) and 24(l) by bringing the same to the notice of the petitioner. The Industrial Court in the light of this aspect of the matter has rightly found that since the petitioner could not indicate any prejudice caused to him by non-supply of the copy of the Model Standing Orders, the Labour Court committed an error in holding that the enquiry held was not fair and proper. Taking into consideration the entire material on record, I find that the learned Member of the Industrial Court has rightly found that failure to supply a copy of the Model Standing Orders to the respondent in the facts of the present case did not have the effect of vitiating the enquiry proceedings. It therefore rightly directed the Labour Court to consider the issue with regard to perversity of findings in the enquiry proceedings by giving due opportunity to the parties.

In that view of the matter, I do not find any reason to interfere in exercise of writ jurisdiction. The Writ Petition is accordingly dismissed. The Labour Court shall proceed to record its findings in terms of the order dated 10.11.2016 passed in Revision U.L.P. No. 50 of 2014. It is clarified that the Labour Court shall decide the proceedings on its own merits without being influenced by any observations made in this order. The parties shall bear their own costs.

**JUDGE**

APTE

**Rohit  
Apte**

Digitally signed by  
Rohit Apte  
Date: 2021.02.17  
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