

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1521 OF 2019

Hansraj S/o Kamtaprasad Mishra

..VS..

State of Maharashtra and ors.

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

Court's or Judge's orders

Shri V.P. Marpakwar, Adv. for the petitioner.

Ms. T.H. Khan, A.G.P. for the respondent Nos. 1 to 5.

CORAM : Z.A.HAQ, J.

DATED : 2nd August, 2019

Heard.

The petitioner had filed complaint under Section 28 read with Items 3, 5 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 to challenge his transfer from Nagpur to Saoner. In these proceedings, following issues were framed for consideration :

“2] Does the complainant prove that respondents come within the purview of an 'industry' as defined under the Industrial Disputes Act, 1947?

3] Does the complainant prove that he is a 'workman' within the meaning of the Industrial Disputes Act, 1947?”

The Industrial Court recorded that the department of Archeology and Museums, being the department of the State Government, cannot be considered as “industry” within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. The Industrial Court further recorded that the petitioner cannot be held to be “workman” as per Section 2(s) of the Industrial Disputes Act, 1947. In view of these findings, the complaint filed by the petitioner came to be dismissed.

The learned A.G.P submitted that the complaint was filed by the petitioner to challenge his transfer order dated 23.05.2003 and the substantive grievance of the petitioner does not survive now.

Shri V.P. Marpakwar, Advocate submits that another complaint seeking relief of regularization is filed by the petitioner and it is pending before the Industrial Court and the findings recorded by the Industrial Court in the impugned order will adversely affect the adjudication of that complaint.

As the substantive grievance of the petitioner in this petition does not survive, in my view, the academic

exercise of examining the legality of the findings recorded by the Industrial Court on the two issues need not be examined in this petition. Suffice it to record that the findings recorded by the Industrial Court that the Archeology and Museums department cannot be treated as “industry” and the petitioner is not “workman”, will not come in the way of Industrial Court while deciding the complaint filed by the petitioner, seeking relief of regularization. If such issues arise for consideration, the Industrial Court shall decide those issues on the basis of the material as would be brought on record.

With the above observations, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

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