

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

WRIT PETITION NO. 1705 OF 2018

THE HEAD OF MISSIONARIES SISTERS ST MARYS
ASHRAM THROUGH SR. M. BLAISE LOBO
VERSUS
DILIP BABURAO ADGALE

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Advocate for the Petitioner : Ms. N. B. Kamble

and Shri S. V. Adwant

Advocate for the Respondent – sole : Shri R. K. Khandelwal

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 18th FEBRUARY, 2020

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PER COURT :

1. On 23/02/2018, this Court had passed the following order :-

“1. The petitioner / original respondent in Application (IDA) No.56/2016 filed by the respondent seeking recovery of legal dues from an employer u/s 33-C(2) of the I.D. Act, 1947, is aggrieved by the order dated 06/09/2017 by which the petitioner is directed to produce certain documents. The petitioner is also aggrieved by the order dated 14/11/2017 by which the Labour Court has declined to recall the order dated 06/09/2017.

2. Contention is that the respondent ought to have a pre-existing right to the quantum of

money which is alleged to be outstanding towards the petitioner and which is sought to be recovered. So also, there must be a privity of contract as employer-employee between the parties so as to enable the respondent to seek recovery of the money from the petitioner. Contention put forth in the written statement alongwith preliminary objections by the petitioner is that there is no employer-employee relationship between the litigating sides. Ignoring this objection, directions have been issued in the impugned order dated 06/09/2017.

3. Issue notice to the respondent, returnable on 23/03/2018. Until the returnable date in this matter, the impugned orders dated 06/09/2017 and 14/11/2017 shall stand stayed. “

2. I have considered the strenuous submissions of Shri Khandelwal, learned Advocate appearing on behalf of the Respondent, original applicant. He submits that he has ample evidence to indicate that he was actually working on the vehicle and was an employee of the Petitioner. He can prove before the Labour Court that there was employee -employer

relationship between him and the Petitioner.

3. I find that the Respondent had put forth the following prayer below application Exhibit U-10 :-

“ B. The Hon’ble Court may pleased to direct the Respondent to produce the RTO particulars of motor vehicle purchased in the year 2001 and the person who drive the said vehicle in the interest of justice.”

4. It appears that the Respondent had desired the production of the details of the alleged driver, who was driving the concerned vehicle. Exhibit U-10 is not properly worded and the meaning that can be drawn from the above reproduced prayer clause B is that the Respondent desired that the Petitioner should produce the person, who drove his vehicle.

5. The Labour Court has concluded that as the ownership of the vehicle has been admitted, there is no requirement of ordering the RTO to produce the vehicle record of MH-20-Y-1140. In Clause 3 of the operative part of the impugned order, the Labour

Court has ordered as under :-

“3. Respondent shall furnish all details relating to driving of vehicle”.

6. I find that, on the one hand, a vague and ambiguous prayer clause is put forth by the Applicant and on the other hand, the Labour Court has passed an equally vague order, which cannot be sustained.

7. In view of the above, this petition is partly allowed. The impugned order to the extent of Clause 3 and 5 below Exhibit U-10, are quashed and set aside.

8. In the event, the Respondent Applicant desires to file a proper application for seeking the details about the name of the driver, his appointment order, his salary details etc., he shall file an application with proper pleadings and the Labour Court would then be at liberty to consider the said application on its own merits.

(RAVINDRA V. GHUGE, J.)

shp/-