

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2916 OF 2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH

WRIT PETITION NO.2917/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH

WRIT PETITION NO.2918/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH
WRIT PETITION NO.2919/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH
WRIT PETITION NO.2920/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,

Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH
WRIT PETITION NO.2921/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH
WRIT PETITION NO.2922/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'

Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

WITH
WRIT PETITION NO. 2923/2008

1. The Secretary,
State of Maharashtra,
Van Vibhag, Mantralaya,
Mumbai - 32

2. Divisional Forest Officer,
'Van Bhuwan'
Nagar Aurangabad Road,
Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar.

..Respondent

AND
WRIT PETITION NO.2014 OF 2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Central Building, Pune.

3. The Deputy Director,

Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2015/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Central Building, Pune.

3. The Deputy Director,
Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2016/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2017/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2018/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,

Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2019/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

WITH
WRIT PETITION NO.2020/2006

1. The State of Maharashtra,
Through Deputy Director,
Social Forestry, Sudkemala,
Badoda Bank Colony,
Ahmednagar.

2. The Director,
Social Forestry,

Nashik Division,
Nashik.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar

..Respondent

WITH
WRIT PETITION NO.2034/2006

1. The State of Maharashtra,
Through the Secretary,
Social Forestry Department,
Mantralaya, Mumbai - 32

2. The Deputy Director,
Social Forestry Division,
Badoda Bank Colony,
Sudkemala, Ahmednagar.

..Petitioners

Versus

Ahmednagar Zilla Van
Kamgar Union,
(Reg. No.NSK/A/35)
Shramik, Tilak Road,
Ahmednagar, Through
it's President.

..Respondent

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AGP for Petitioners : Shri Shinde A.S.
Advocate for Respondent : Shri Barde P.V. a/w Shri Totala Akshay

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 27, 2020

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ORAL JUDGMENT:-

1. Twelve identical matters were not on board. Shri Barde,
learned Advocate files his Vakalatnama on behalf of the Union /

respondent and by the consent of the parties, the petitions in the second group, Writ Petition No. 2014 of 2006 onwards, are taken on board today and heard finally.

2. The learned Advocate for the respondent Union had sought circulation in these matters for passing orders, in view of the decision dated 6.5.2019, delivered by this Court, in a similar Writ Petition No.2021 of 2006, involving the same litigating parties.

3. I have considered the submissions of the learned Advocates for the respective sides.

4. Considering the judgment delivered by this Court on 6.5.2019 in Writ Petition No.2021 of 2006, I find that these petitions can be disposed off with similar directions.

5. In so far as the issue as to whether Social Forestry Department is an industry or not, for the present, is a settled position. There is no dispute that the matter is referred to a larger bench in the case of State of U.P. Vs. Jai Bir Singh (2005) 5 SCC 1 for consideration as to whether Social Forestry Department could be termed as being an 'industry' under section 2(s) of the Industrial Disputes Act, 1947. As the legal position stands today, I am not required

to consider the contention of the learned AGP that because the issue is pending before the Hon'ble Apex Court for the last 14 years and as a larger bench is still not constituted, this petition, along with many similar petitions, which are pending for final hearing for 13 years as the litigation dates back to 1988, should be kept pending.

6. Notwithstanding the above, the State of Maharashtra has introduced two resolutions, dated 19.10.1996 and 16.8.2012. By the first G.R., all those daily wagers who have been working for 5 consecutive years with the Social Forestry Department, under any of its schemes, have been held eligible to be brought on regular establishment. Those workmen, in the instant case, who have succeeded before the Industrial Court vide the impugned judgment, are held to have worked for 240 days in continuous employment, are in service and would be eligible for the benefits of the first G.R. Similarly, the second G.R. indicates that those workers, who have been working on daily wages from 1.12.1994 and who have worked for five consecutive years and have completed 240 days in continuous employment in each year in between 1.11.1989 to 31.10.1994, have been held to be eligible for regularization since the State has created 5089 posts for absorbing such daily wagers working in the Social Forestry Department.

7. In view of the above, these petitions are rendered of an academic interest. Nevertheless, since the issue of creation of posts was the core issue before the Industrial Court, these petitions will be partly allowed in so far as the declaration of unfair labour practices against the department is concerned. It is settled position that when the power to create posts vests with the State Government and until such posts are created, the Social Forestry Department cannot grant regularization, there cannot be a declaration of ULP against the department, in the absence of posts.

8. In view of the above, this petition is partly allowed to the extent of quashing the declaration of ULP under items 6 and 9 of Schedule IV. So also, all those workman who have succeeded before the Industrial Court, vide the impugned judgment, shall be considered for service benefits, inclusive of monetary benefits and regularization, as per the G.Rs. dated 19.10.1996 and 16.8.2012. The petitioners shall consider their cases in the light of the said two Government Resolutions and shall take a decision with regard to grant of the benefits under the said two Government Resolutions, inclusive of monetary benefits and regularization, within a period of four months from today. The proposals shall be prepared by the petitioners / competent authority and shall be submitted to the appropriate department of the State of Maharashtra on / or before

30.4.2020. Thereafter, the department would consider the cases of each of the daily wagers, who have succeeded before the Industrial Court, vide the impugned judgment and the decision shall be announced on / or before 30.6.2020.

9. Since there is a possibility that most of these successful workmen before the Industrial Court would have completed 58 years of age and may have crossed the age of superannuation, the petitioners shall not pray for extension of time and shall consider their cases in view of the order of this Court, expeditiously, with promptitude and by giving highest priority. Their age would not be an impediment.

10. The impugned judgment of the Industrial Court, therefore, stands merged in the directions of this Court. Needless to state, all the successful daily wagers before the Industrial Court and under the two Government Resolutions, will be eligible for continuity of service, monetary benefits and all benefits incidental and consequential thereto.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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