

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

WRIT PETITION NO.449 OF 2021

[Manager, Dainik Hindusthan Office and others .vs. Surendra Tulshiram Mohod]

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

Court's or Judge's orders

Shri R.V. Shiralkar, Advocate for the petitioners,
Shri N.R. Saboo, Advocate for the respondent.

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CORAM : N.B. SURYAWANSHI, J.
DATED : JULY 20, 2021.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard the learned Advocate for the petitioners and the learned Advocate for the respondent.

3. By this petition the petitioners challenge the order passed by the Assistant Labour Commissioner, Amravati thereby allowing the pursis filed by the respondent and disposing of the proceeding so as to enable the respondent to approach appropriate government.

4. The respondent filed proceeding under the Payment of Gratuity Act, 1972 seeking gratuity from the petitioner no.1. A preliminary objection was raised by the petitioners about the maintainability of the said proceeding contending that since there are less than 10 employees engaged in the petitioners' establishment, the

provisions of the said Act are not applicable and, therefore, the proceeding is not tenable.

5. The respondent thereafter filed a pursis on 19.8.2020 and submitted that the application was filed by the respondent for recovery of gratuity amount under the Payment of Gratuity Act, 1972. In Working Journalist and other Newspaper Employee (Condition of Service) and Miscellaneous Provisions Act, 1955, there are provisions for recovery a payment of gratuity and for recovery of the same. The respondent, therefore, sought permission to withdraw the application with liberty to approach appropriate forum. Vide impugned order, by allowing the pursis, the proceeding filed by the respondent was disposed of by granting liberty to file proceeding before appropriate government.

6. The petitioners are aggrieved by this order. The petitioners contend that when the Assistant Labour Commissioner had no jurisdiction, there was no occasion for him to write a detailed order by making observations. The petitioners apprehend that the observations made by the Commissioner against the petitioners may come in their way in the subsequent proceeding filed by the respondent before the appropriate government. The apprehension of the petitioners is misconceived. The petitioners can contest the proceeding, if

any, filed by the respondent on its own merits and the observations of the Assistant Labour Commissioner would be of no help to the respondent. Appropriate forum would decide the proceeding filed by the respondent without being influenced by the observations of the Assistant Labour Commissioner in the impugned order dated 5.10.2020. With these observations, the writ petition is disposed of.

(N.B. Suryawanshi, J.)