

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

WRIT PETITION NO. 1070 OF 2015

Ravindra Eknath Gaikwad ... **Petitioner**

VERSUS

The Deputy Director, ... **Respondent**
Social Forestry Department,
Osmanabad.

Mr. Sanket S. Kulkarni, Advocate for the petitioner
Mrs. V. S. Chaudhary, AGP for the respondent State.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 7th March, 2022

ORDER:

1. By this petition, the petitioner workman is challenging the judgment and award dated 02.01.2003 delivered by the IInd Labour Court, Solapur by which Reference (IDA) No.92 of 1996 between the parties, has been dismissed for not being maintainable.

2. The petitioner is a member of a Trade Union from Osmanabad which is espousing the cause of workers working with the Social Forestry Department at Osmanabad. Presently, the Labour Court at Latur has been instituted and the matters from Osmanabad District are decided by the Labour Court at Latur.

3. On 06.02.2015, this Court had passed the following order:

- "1. The Petitioner claims to have worked as a Watchman with the Respondent/ Department of Social Forestry from 05.08.1988 to 31.01.1990. After having put in 16 months of continuous service, he was alleged to be illegally terminated. He raised an industrial dispute which was referred to the Labour Court at Solapur and registered as Reference IDA No.92/1996. By the judgment and award dated 02.01.2003 the said Reference has been dismissed purely on the ground of maintainability holding that the Respondent is not an industry.
2. It appears that the Petitioner has applied for a certified copy on 26.11.2014 and after obtaining the same, this Writ Petition has been filed on 14.01.2015.
3. Mr. Kulkarni, learned counsel appearing for the Petitioner, submits that the Petitioner/ workman has explained the reasons for the delay caused in filing of this petition. The Petitioner is said to be an illiterate person and the Trade Union which represented him before the Labour Court had espoused his cause. Since the Trade Union was in contact with the Advocate representing the Petitioner in the Labour Court, the Petitioner had no knowledge about the rejection of his Reference.
4. Mr. Kulkarni further submits that the rejection is purely on the ground that the Department of Social Forestry is not an industry. In fact the said issue has been referred to the Larger Bench for a decision as to whether, it is an industry or not, by the Honourable Supreme Court in the case of State of U.P. v/s Jai Bir Singh reported in 2005 (5) SCC 01. He, therefore, submits that the Labour Court has proceeded on an erroneous footing and in the event the Respondent is held to be an

industry, the rejection of the Reference would result in causing grave injustice to the Petitioner.

5. In the light of the above, keeping the issue of delay open, issue notice before admission to the Respondents, returnable on 23.03.2015.

6. The learned AGP waives service for the Respondent. The Respondent to file an affidavit in reply."

4. It is not disputed that the Reference, in view of the Judgment in the case of **State of U.P v/s Jai Bir Singh** (supra), is still not decided. In the meanwhile, the learned Division Bench of this Court in the case of Chief Conservator of Forests, Pune (T) and another vs. Janabai Sonaba Sarpale, 2019 II CLR 28, held that the Forest Department in the State of Maharashtra is an industry. Until this position is altered by the judgment in the Reference matter by the Hon'ble Supreme Court, the view taken by this Court at Bombay would cover the field.

5. In view of above and since the Labour Court has dismissed the Reference only on the ground of maintainability, this petition is partly allowed.

The impugned Award dated 02.01.2003 is quashed and set aside with the following directions:

(a) Application (IDA) No.92 of 1996 is restored to the file of the Labour Court, Latur.

- (b) Both the litigating parties shall appear before the Labour Court, Latur on 21st March, 2022. Separate notice need not be issued by the Labour Court.
- (c) Since the learned Division Bench of this Court has held that Social Forestry Department is an Industry, this issue is not to be dealt with by the Labour Court and it shall proceed to decide Issue Nos. 2, 3 and 4 on their own merits.
- (d) In the event either of the parties having not led oral evidence, liberty is granted to adduce evidence in between 28.03.2022 to 30.04.2022.
- (e) The Labour Court would refuse adjournment sought on trivial or unreasonable ground since the Reference proceedings are of the year 1996 and shall give highest priority for deciding this Reference.
- (f) The litigating parties shall conclude their oral submissions /arguments in between 02.05.2022 till 31.05.2022.
- (f) The Labour Court, Latur would deliver its Award on or before 30th June, 2022.

(RAVINDRA V. GHUGE, J.)

JPC