

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

WRIT PETITION NO. 7315 OF 2018

1. Agricultural Produce Market Committee
Rahata, At post Rahata,
Tq. Rahata, Dist. Ahmednagar,
Through its Chairman.
2. Agricultural Produce Market Committee
Rahata, At post Rahata,
Tq. Rahata, Dist. Ahmednagar,
Through its Secretary,
Udhav S/o Genuji Deokar,
Age : 52 Years, Occu. : Service,
R/o Rahata, At post Rahata,
Tq. Rahata, Dist. Ahmednagar. .. Petitioners

Versus

Bhaskar S/o Baburao Dukre,
Age : 57 Years, Occu. : Nil,
R/o Pravara Nagar, Panchwati,
Near Water Tank, Post Pravara
Nagar, Tq. Rahata, Dist. Ahmednagar. .. Respondent

Shri Abasaheb D. Shinde, Advocate for the Petitioner.
Shri Parag V. Barde, Advocate for the Respondent.

**CORAM : SANDEEP V. MARNE, J.
DATE : 07TH DECEMBER, 2022.**

ORAL JUDGMENT :

. Rule. Rule is made returnable forthwith. With the consent of parties taken up for final hearing.

2. By the present petition, the petitioner challenges order dated 30th January, 2018 as well as the order dated 04th August, 2017 passed in Reference IDA No. 08 of 2015 by the Labour

Court Ahmednagar.

3. The respondent had filed application dated 21.02.2017 seeking production of documents from the petitioner. On account of petitioner's failure to file reply to that application, "no say" order came to be passed on 13.07.2017. Thereafter the Labour Court proceeded to allow application of the respondent on 04.08.2017 directing the petitioner to produce on record documents demanded by the respondent. The petitioner moved an application for recall of that order which has been rejected by order dated 30.01.2018.

4. I have heard Mr. Shinde and Mr. Barde learned counsels appearing for petitioners and respondent extensively on merits of the application dated 21.02.2017 and the order dated 04.08.2017. Since I am deciding correctness of the order dated 04.08.2017 on merits, it is not necessary to go into the issue of correctness of order dated 30.01.2018.

5. By its application dated 21.02.2017, the respondent sought following three categories of documents (i) all documents relating to salary paid to the respondent by Shrirampur Agricultural Market Committee during 1993 to 2004, (ii) All documents relating to payment of salary/emoluments by the petitioner-committee to the respondent during 2004 to November 2012, (iii) Cash book and all documents available with the petitioner-committee in respect of the aforestated period.

6. Mr. Barde, fairly submits that documents at Sr. No. (i) and (iii) may not be much relevant to decide the issue of validity of

termination order. He however, prays for supply of documents at Sr. No. (ii). Mr. Shinde submits that the respondent was employed only once a week and has already admitted in the previous proceedings relating to regularization that he has not completed 240 days service in any of the previous year. He therefore submits that demand of the respondent for supply of documents is in the nature of roving enquiry.

7. After hearing learned counsels for parties, it is seen that the Respondent is questioning validity of oral termination dated 26.11.2017. On the other hand, the petitioner-committee has taken a defence that the respondent has abandoned the service after rejection of complaint seeking regularization of service on 08.11.2012. Be that as it may. To prove wrongful termination of service and to claim compensation for such wrongful termination, the respondent will have to prove that he has worked for a period of 240 days during immediately preceding twelve months prior to 26.11.2017. Though primary responsibility of proving such an assertion rests solely on the respondent, since the petitioner-committee could have maintained documents relating to payment of salary/remuneration to the respondent, it would be in the interest of justice that the petitioner-committee is directed to produce the documents relating to payment of salary/remuneration to the respondent during the period from 2004 to November 2012. Mr. Shinde submits that such record is not available. Mr. Barde counters this submission by contending that the petitioner-committee will have to then prove the assertion of destruction of records.

8. In view of the above position emerging before me, I proceed

to pass following order.

O R D E R

- A. Order dated 04.08.2017 passed by the Labour Court on application below Exhibit U-10 shall stand modified to the extent that the documents at Sr. No. (i) and (iii) in the application dated 21.02.2018 need not be supplied/produced.
- B. The petitioner-committee shall supply/produce documents at Sr. No. (ii) of the application dated 21.02.2017, if the same are maintained and available with the petitioner-committee.
- C. The respondent shall be at liberty to withdraw the amount of Rs. 15,000/- deposited by the petitioner-committee in pursuance of order dated 10.07.2018 along with accrued interest.
- D. With above directions writ petition is partly allowed.
- E. Rule is partly made absolute in above terms.

[SANDEEP V. MARNE, J.]