

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

73 WRIT PETITION NO.12651 OF 2021

**AHMEDNAGAR ZILLA KAMGAR SANGHATNA THROUGH ITS
PRESIDENT SANTOSH VIJAY LANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr.Barde Parag Vijay
AGP for Respondent Nos. 1 & 2-State : Miss. R.P. Gaur
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 03.10.2022.

PER COURT :

1. Heard both the sides.
2. The learned Advocate Mr. Barde for petitioner submits that the only dispute that gives rise to the present Writ Petition is refusal by the Assistant Commissioner of Labour to make report to the appropriate Government in the light of provisions of Section 12 (5) of the Industrial Disputes Act.
3. Learned Advocate Mr. Barde would cite the following decisions, to buttress his argument that the Conciliation Officer has no powers to withhold any report and even failure report is to be submitted. The appropriate Government is thereafter expected to take

decision. Giving complete go by to the impugned communication the Conciliation Officer has not been submitting the report.

“1. Vijay Shankar Tiwari Vs. The State of Maharashtra and Others Writ Petition No. 10795 of 2019 decided on 22.03.2022.

2. Rohinton P. Daruwala Vs. Deputy Commissioner of Labour Writ Petition No. 2686 of 1994 dtd. 18.01.1985.

3. United Mine Workers Union Through Shri Put Gaonkar (General Secretary) Registered Address : G5, Macedo Appts. Tisk, Ponda Goa vs. Union of India, Through Secretary, (Ministry of Labour and Employment) Shram Shakti Bhavan, Rafi Marg New Delhi 110001- Writ Petition No. 1018 of 2019 datd 27.01.2020.

4. Sarva Shramik Sangh Vs. Indian Oil Corporation Ltd. and Others- Civil Appeal No. 2423 of 2009 (Arising out of SLP (C) No. 18717 of 2006) dated 13.04.2009.”

4. The learned AGP referring to the contents of the affidavit-in-reply would contend that the petitioners were never appointed as regular workers and no relationship of employer and employee exists between them and the respondent Nos. 3 and 4. She would pointed out that the petitioners were appointed under the All India Council for Technical Education (National Employability Enhancement Mission (NEEM) Regulations, 2017.

5. Having considered the rival submissions, according to us the issue is no more res-integra. For whatever may be the reason

when the parties were before the Conciliation Officer and he reaches to some conclusion either way including non existence of any industrial dispute, it is imperative for him to put up the report to the appropriate government. It would then be up to the Government to take suitable decision.

6. In our considered view the decision on the point of existence or otherwise of Industrial Dispute is beyond the purview of the powers vested in the Conciliation Officer under the Industrial Disputes Act.

7. In view of above state of affairs, we allow the Writ Petition and direct the Conciliation Officer to forward the report to the appropriate government as early as possible and in any event within six weeks from today.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE