

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8567 OF 2022

The State of Maharashtra and Ors. ..Petitioners

V/s.

Ramchandra Laxman Jadhav ..Respondent

Ms. M.S. Bane, AGP for the Petitioners/State.

Mr. Sanjeev Sawant a/w B.K. Barve and Sandeep Barve i/b B.K.
Barve & Co. for the Respondent.

CORAM : C.V. BHADANG, J.

DATE : 24 AUGUST 2022

P.C.

. By this petition, the Petitioner/State is challenging the judgment and Award dated 31.12.2018 passed by the learned Industrial Court at Thane in Complaint (ULP) No. 11 of 2017. By the impugned award, the Tribunal has directed the Petitioner to grant permanency of service to the Respondent-complainant and to pay wages as per the Minimum Wages Act, 1948.

2. I have heard the learned AGP and the learned counsel for the Respondent. With the assistance of the learned counsel for the parties, I have gone through the record.

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3. It is submitted by the learned AGP that the learned Industrial Court has no jurisdiction. Secondly, it is submitted that the concerned hostel which are formed as per Government Resolution dated 17.06.2003 is not an 'industry' within the meaning of Section 2 (j) of the Industrial Disputes Act, 1947 ('1947 Act' for short). It is submitted that the Respondent was appointed on 29.12.2007 as a watchman on honorarium of Rs.3,000/- per month which appointment has been accepted by the Respondent. She, therefore submitted that the Industrial Court could not have directed grant of permanency to the Respondent.

4. The learned counsel for the Respondent has submitted that the issue about similar hostels being 'industry' or otherwise has been considered by this Court in *All Saints Home v/s. Chhaya P. Pardeshi and Ors.*¹ and this Court has held that the said activity would come within ambit of an 'industry', within the meaning of Section 2(j) of 1947 Act. The learned counsel has further brought to my notice a common order dated 21.03.2011 passed by this Court in a batch of Writ Petitions being Writ Petition No. 2019 of 2011 and others, in which similar order passed by the Industrial Court in a complaint under the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 has been confirmed. It is submitted that the

¹ 2002 (2) Bom. L.R. 93

Industrial Court after placing reliance on the aforesaid decisions has rightly granted benefits of permanency.

5. I have considered the submissions made. At the outset, it is necessary to note that the impugned Award is passed on 14.10.2020 which is sought to be challenged in this present petition in the year 2020. There is no explanation forthcoming for the delay. The petition has to fail only on the ground of delay and laches. However, in order to give quietus to the matter, I also propose to consider the rival submissions made on merits.

6. This Court in case of *All Saints Home* (supra) has held thus:

“10. That however, does not detract from the fact that the Petitioner is an industry because insofar as the employees are concerned, there is a systematic activity involving co-operation between them and the employer in the course of which a service is provided to the inmates of the hostel. There is nothing charitable about the relationship between the employer and employee. For the employee it is a matter pure and simple of discharging his duties, of offering labour in return for wages which constitute the source of livelihood. The first submission must therefore be rejected by holding that the Petitioner does fulfil the requirement of the expression 'Industry' under Section 2(j) of the Industrial Disputes Act, 1947.

7. This Court by a common order dated 21.03.2011 in Writ Petition No. 2019 of 2011 has also confirmed similar order passed

by the learned Industrial Court. The learned counsel for the Respondent pointed out that these Cases also involved the services of the employees in the hostels which are constituted by the State all over the State. In the present case, the hostels were established by the Government as per the Government Resolution dated 17.06.2003 for purposes of benefit of students from the Backward Classes.

8. I have gone through the impugned Award passed by the Tribunal which is based on the cases decided, which have been considered by the Industrial Court. I do not find that the impugned Award suffers from any infirmity so as to require interference.

The petition is without any merit and is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.