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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1358 OF 2020

M/s Technotrack Chains and Conveyor Systems
Private Limited through its Authorized Director
and Another

PETITIONERS

VERSUS

Sanjeev Chindhaji Arakh

RESPONDENT

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Mr. Rajendra S. Deshmukh, Senior Advocate a/w Mr. Shriram V.
Deshmukh i/b Mr. Devang R. Deshmukh, dvocate for petitioners

Mr. P. S. Mantri h/f Mr. Parag V. Barde, Advocate for respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th AUGUST, 2023

ORDER :

1. The petitioners are aggrieved by order passed by the Labour Court, Ahmednagar below Exhibit-U-7, in Complaint (ULP) No. 66 of 2016 and the order passed by the Industrial Court in Revision (ULP) No. 106 of 2018.

2. The respondent filed the Complaint challenging his oral termination dated 8th June, 2016. By filing written statement cum reply, the petitioners opposed the complaint contending that the complaint is not maintainable, as the respondent was working as 'Marketing Executive' and, therefore, he does not fall

under the definition of “employee” under section 3 (5) of the MRTU and PULP Act and the respondent cannot be termed as employee / workman under section 3 (5) of the MRTU and PULP Act and 2 (s) of the Industrial Disputes Act, 1947, therefore, he is not entitled to file complaint, under section 28 (i) of the said Act and the Complaint is not maintainable.

3. The respondent – employee filed application Exhibit-U-7, seeking direction to the petitioners to produce following documents :

- I. Balance sheet of the petitioner factor for 3 previous years.
- II. Attendance Register / Salary sheets of the respondent from the date of his appointment till June, 2016.
- III. Duties of the respondent.
- IV. Extract of leave account of the respondent.
- V. Extract of PF account of the respondent along with its number.
- VI. Cash Book and expenditure vouchers submitted by the respondent during his service period.

4. The Labour Court allowed the application and directed the

petitioners to produce these documents.

5. The petitioners challenged said order of the Labour Court, by filing a Revision (ULP) No. 106 of 2018. The Revision is partly allowed and except the document at serial No.1, the petitioners are directed to produce documents at serial No.2 to 6. Being aggrieved by these orders, present writ petition is filed.

6. Heard learned Senior Advocate for the petitioners and learned advocate for the respondent. Perused the memo of writ petition, annexures thereto and the impugned orders.

7. Learned Senior Advocate for the petitioners assailed the impugned orders contending that a fishing and roving inquiry is being directed by both the Courts, by way of the impugned orders. The petitioners cannot be compelled to produce such documents and such application is only filed with a view to protract the matter

8. The argument of learned Senior Advocate is unacceptable as admittedly, the petitioners have challenged maintainability of the Complaint taking a ground that the respondent is not a workman and, therefore, the complaint filed him is not maintainable. So as to prove on record that the respondent is a workman, he has sought production of the said documents,

mentioned in Application Exhibit-U-7. With a view to bring on record true and correct facts as to on which position / post the respondent was serving with the petitioners, these documents are necessary. Learned Industrial Court has rightly held that the document at serial No.1 is not necessary and no fault can be found with the same.

9. There is no illegality or perversity in the impugned orders. No case is made out by the petitioners to exercise extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE