



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

WRIT PETITION NO. 3403 OF 2022

DILIP ASHOK SATHE

VERSUS

**CROMPTON GRAVES LTD (NOW KNOWN AS C. G. POWAR AND
INDUSTRIAL SOLUTION) AND ANOTHER**

...

Advocate for Petitioner : Mr. Barde Parag Vijay

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CORAM : SHAILESH P. BRAHME, J.

DATE : 12th DECEMBER 2023.

Per Court :

. Heard the learned Counsel for the petitioner.

1. The petitioner is challenging judgment and order dated 25.11.2021 passed by the learned Member, Industrial Court, Ahmednagar, dismissing revision application and confirming the order dated 18.01.2016 passed by the learned Labour Court, Ahmednagar.

2. The petitioner approached the Labour Court against the termination of his services being unfair labour practice under Item-1(a), (b), (d), (e), (f) and (g) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The respondent no.1 denied employer and employee relationship between the parties. The respondent no.2 happened to be a Labour Contractor. At the instance of petitioner, a preliminary issue

was framed. It was decided by order dated 18.01.2016 by the Labour Court, holding that a complaint is not maintainable against respondent no.1. The Industrial Court confirmed the finding. The learned Counsel submits that both the Courts below committed error of jurisdiction. The petitioner was in fact working with the respondent no.1. The issues should not have been decided at a preliminary stage. A full-fledged hearing is required. Both the Courts below have adopted unpragmatic approach in deciding preliminary issue against the petitioner.

3. I have considered the order passed by the Labour Court as well as judgment and order passed by the Industrial Court. Both the Courts below have concurrently held that the petitioner is unable to establish employer and employee relationship. There is absolutely no material on record to show that he is employee of the respondent no.1. The deposition in the cross-examination of the petitioner has also been referred. I do not find that there is any perversity and patent illegality. Both the Courts are justified in deciding the preliminary issue against the petitioner. There is no merit in the petition. Hence it is dismissed.

[SHAILESH P. BRAHME, J.]

Najeeb.