

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4082 OF 2022

Nagesh Kumar Pandey, B/2/6,
Himalay Chawl, Hajimalang
Road, Near Chetna School,
Kalyan (E)-421 306.

...Petitioner

V/s.

1. Nav Bharat Press Ltd., Nav
Bharat Bhavan, Plot No.13,
Sector 8 , Sanpada (E), Navi
Mumbai-400 705.

2. State of Maharashtra

...Respondents

Mr. Nagesh Kumar Pandey, Petitioner in person.

Ms. Aswini R. Singh a/w. Ms. Priyanka Upadhaya and Ms. Nikita Borkar, for Respondent No.1.

CORAM : SUNIL B. SHUKRE, &

SANDEEP V. MARNE, JJ.

Dated : 11 September 2023.

ORAL JUDGMENT (*Per : Sunil B. Shukre, J.*)

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

2. It is seen from the record that Petitioner made an application under Section 17(1) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (called for the sake of convenience 'The Working Journalists Act' hereinafter) before the Assistant Labour Commissioner, Thane.

3. The Labour Commissioner, instead of referring the application to the State Government, referred the application to the Labour Court thinking that the application raised an industrial dispute which could be adjudicated upon by the Labour Court.

4. When the Reference came up for consideration before the Labour Court, the Labour Court took into consideration the provisions made under Section 17(1) and in the case of All India Reporter Private Ltd. V/s. The State of Maharashtra, (Writ Petition No 6402 of 2019) decided on 17 November 2022 and took a view that the Reference could not have been made by the Labour Commissioner but could be made by the State Government and thus found the Reference made by

the Assistant Labour Commissioner as improper and therefore disposed of the Reference.

5. The order so passed by the Labour Court has rendered this petition infructuous, but that does not resolve the issue raised by this petition. The issue is about the recovery of the wages payable to the Petitioner in terms of the recommendations of Majithia Wage Board Award. This issue would have to be considered and decided appropriately by the State Government in view of the provisions made in Section 17(1) of the Working Journalists Act. Therefore, we are of the view that it would be in the interest of justice that the application filed under Section 17(1) of the Working Journalists Act by the Petitioner would have to be referred to or filed before the State Government as provided under the very provision of law for its appropriate decision. We thus find that though this petition has been rendered infructuous, the issue involved in the petition is required to be appropriately decided by the State Government by virtue of the provisions made in Section 17(1) of the Working Journalists Act.

6. In the circumstances, we direct the Petitioner to file a fresh application under Section 17(1) of the Working Journalists Act before the State Government within a period of four weeks from the date of the order and if it is done so, we further direct that the State Government shall decide the same in accordance with law within a

period of eight weeks from the date of filing of the application after giving due opportunity of hearing to the Petitioner as well as to the Respondent.

6. All contentions of the parties are kept open. Rule is made absolute in the above terms.

(SANDEEP V. MARNE, J.)

(SUNIL B. SHUKRE, J.)

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SHAILESH
SAWANT

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