

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

WRIT PETITION NO. 15814 OF 2024

Principal, Nutan Vidya

Prasarak Mandal And Anr.

... Petitioners

Versus

Khare Babu Bhaiylal

... Respondent

Mr. Prafulla Shah *a/w Ms. Gunjan Shah i/b Kayval P. Shah for the Petitioners.*

Mr. Bhushan Deshmukh *a/w Mr. Shashank Patore for the Respondent No.1.*

CORAM : SANDEEP V. MARNE, J.

DATE : 10 DECEMBER 2024.

P.C. :

1) The Petition challenges Order dated 25 July 2024 passed by the learned Member Industrial Court, Nashik holding that the Complainant is maintainable and that there exists employer-employee relationship between the parties.

2) I have heard Mr. Shah, the learned counsel appearing for the Petitioners and Mr. Deshmukh, the learned counsel appearing for Respondent.

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3) After having considered the submissions canvassed by the learned counsel appearing for parties and after perusal of the pleadings in paragraph 2 of the application raising preliminary objection, there appears to be a direct admission on the part of the Petitioners that the Respondent was being paid charges towards cleaning of toilet on hourly basis per day. This is not a case which involves presence of an intermediary through whom wages of the Respondent are paid. Since there is a direct admission of payment of wages by the Petitioners-Management to the Respondent, existence of employer-employee is clearly established. Whether on the strength of part-time service allegedly rendered by Respondent, he would be entitled to claim the benefit of permanency or not is something which needs to be decided at the time of final hearing of the Complaint. The Respondent has not sought any declaration that the contract of his employment is sham or bogus or that he is a direct employee of the Petitioners. The direct relationship between the Respondent and Petitioners is in fact admitted by the Petitioners themselves. Though they have created a dispute about the nature of the engagement of Respondent and though it is Petitioners' contention that Respondent performs the job of cleaning toilets of different organization and that therefore he is not the employee of Petitioners-College alone, this is something which needs to be decided while examining the claim of Respondent for permanency. This cannot be a ground for ousting the jurisdiction of the Industrial Court. In my view, therefore, no patent error can be traced in the order dated 25 July 2024. Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]