IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

Writ Petition No. 4950 of 2017

Prabhudas Mithu Kokude
Aged 57 years R/o Devhada(Kh.),
Post Devhada(Bk.), Tahsil Mohadi,
District Bhandara. ... Petitioner

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony, Tumsar Road,
District Bhandara. ... Respondents

- -

with

Writ Petition No. 4969 of 2017

Suryaprakash Motiram Bhandarkar
Aged 58 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. ... Petitioner

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Tahsil Tiroda, District Gondia. ... Respondents

- -

with
Writ Petition No. 4965 of 2017

Bhaskar Govindrao Bhandarkar,
Aged 57 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4952 of 2017

Shiva Rajaram Meshram,
Aged 58 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4963 of 2017

Dulichand Mahadu Kuthe,
Aged 64 years R/o Selotpar,
Post Kesalwada, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4981 of 2017

Ramesh Devdas Kumbhalwar,
Aged 54 years R/o Devhada (Kh.),
Post Devhanda (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony, Tumsar Road,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4961 of 2017

Rupchand Maroti Kamble,
Aged 49 years R/o Devhada (Kh.),
Post Devhada (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony, Tumsar Road,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4958 of 2017

Bharat Dama Tidke,
Aged 52 years R/o Patiltola,
Post Mundikota, Tahsil Tiroda,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre,
R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4953 of 2017

Suresh Hariram Khobragade,
Aged 51 years R/o Manora,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4968 of 2017

Ravi Rameshwar Palandurkar,
Aged 55 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4970 of 2017

Digambar Rajaram Bhelawe,
Aged 57 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Tahsil Tiroda, District Gondia. **... Respondents**

- -

with
Writ Petition No. 4972 of 2017

Madhukar Sitaram Shende,
Aged 59 years R/o Patiltola,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4959 of 2017

Roshan Janba Nagdeve,
Aged 51 years R/o Navegaon,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4962 of 2017

Tularam Bakaram Fulbandhe,
Aged 52 years R/o Manora,
Post Kesalwada, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4985 of 2017

Ramdas Narbad Kumbhre,
Aged 56 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4951 of 2017

Mulchand Kasiram Wasnik,
Aged 57 years R/o Devhada (Kh.),
Post Devhada (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4960 of 2017

Duryodhan Dasaram Meshram,
Aged 48 years R/o Devhada (Kh.),
Post Devhada (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4983 of 2017

Shishupal Motiram Lade,
Aged 56 years R/o Devhada (Kh.),
Post Devhada (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4967 of 2017

Rupchand Pundlik Ramteke,
Aged 70 years R/o Selotpar,
Post Kesalwada, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4976 of 2017

Ghanshyam Tukaram Bhelawe,
Aged 54 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4971 of 2017

Ravi Yuvraj Sonwane,
Aged 50 years R/o Biroli,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4978 of 2017

Shankar Maroti Tidke,
Aged 58 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4957 of 2017

Badiram Suka Bhondekar,
Aged 55 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4954 of 2017

Madhukar Rajaram Bhelawe,
Aged 47 years R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Tahsil Tiroda, District Gondia. **... Respondents**

- -

with
Writ Petition No. 4956 of 2017

Likhiram Urkuda Pahune,
Aged 57 years R/o Ghatkuroda,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- - - -

with
Writ Petition No. 4973 of 2017

Ashok Narayan Kamble,
Aged 51 years R/o Devhada (Khurd),
Tahsil Mohadi, District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4974 of 2017

Harichand Ghusu Uikey,
Aged 61 years R/o Navegaon,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with

Writ Petition No. 4975 of 2017

Daliram Tulshiram Selokar,
Aged 54 years R/o Kanhalgaon,
Post Mundhari Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Bhandara. **... Respondents**

- -

with

Writ Petition No. 4964 of 2017

Jugraj Namdeo Pandhre,
Aged 58 years R/o Navegaon,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4966 of 2017

Ramesh Karu Meshram,
Aged 51 years R/o Devhada (kd.),
Post Devhada (Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4982 of 2017

Natthu Kisan Inwate,
Aged 56 years R/o Kesalwada,
Post Palora, Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4980 of 2017

Fattu Tanu Kamble,
Aged 52 years R/o Devhada(Kh.),
Post Devhada(Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4979 of 2017

Jaipal Motiram Lade,
Aged 58 years R/o Devhada(Kh.),
Post Devhada(Bk.), Tahsil Mohadi,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Bhandara. **... Respondents**

- -

with
Writ Petition No. 4977 of 2017

Rispal Fulchand Rodage,
Aged 58 years R/o Yadmakot,
Post Kesalwada, Tahsil Tiroda,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre, R/o Ghogara,
Post Mundikota, Tahsil Tiroda,
District Gondia. **... Respondents**

- -

with
Writ Petition No. 4984 of 2017

Bhaurao Kisan Ishwarkar,
At Devhada(Kh.), Post Devhada(Bk.),
Tahsil Mohadi, District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri J. B. Goyal,
R/o Gohil Colony,
Tumsar Road, District Bhandara. **... Respondents**

- -

with
Writ Petition No. 5526 of 2017

Gopichand Ghisu Uke,
Aged 56 years R/o Mehgaon,
Post & Tahsil Tumsar,
District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri Manik Dongre,
Age 40 years, Occ. Service,
R/o Ghogara, Post Mundikota,
Tahsil Tiroda, District Gondia. **... Respondents**

- -

with
Writ Petition No. 6933 of 2017

Bhaurao Nago Meshram,
Aged 51 years, Occ. Service,
R/o Devhada (Khurd),
Tahsil Mohadi, District Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
Ellora Paper Mills Limited,
Devhada(Khurd), Tahsil Mohadi,
District Bhandara.

(2) Shri M. R. Kamble,
Aged Major, Occ. Service,
R/o Devhada(Khurd), Tahsil Mohadi,
District Bhandara. **... Respondents**

- -

with
Writ Petition No. 5495 of 2017

Tilak Raghunath Sahare,
Aged major, Occ. Service
R/o. Devhada, Bu., Tah. Mohadi,
District - Bhandara. **... Petitioner**

- Versus -

(1) The Manager/Managing Director,
M/s. Ellora Paper Mills Limited,
Devhada Khurd, Tah. Mohadi,
District - Bhandara.

(2) Shri Manik Dongre,
Aged Major, Occ. Service,
R/o Ghogara, Post Mundikota,
Tah. Tiroda, District - Gondia. **... Respondents**

- -
Mr. S. E. Raghorte, Advocate for the petitioners
Mr. V. D. Muley, Advocate for the respondent no. 1
None for respondent no. 2
- -

CORAM : ANIL L. PANSARE, J.

Date : 11-06-2024

COMMON JUDGMENT

The petitioners were workers of respondent no. 1 – company. The respondent no. 2 is a contractor. The petitioners' grievance was that though they were employed by respondent no. 1, they were shown on the muster of respondent no. 2 to deprive them from availing regularization in employment. As against, respondent

no. 1's stand was that the petitioners were always engaged by the respondent no. 2 and respondent no. 1 has availed the services of petitioners through the respondent no. 2.

2. Learned counsel for the petitioners/workers submits that the respondent no. 1 has deducted the amount of provident fund from their salary and was deposited in the provident fund account of the company which is self sufficient to prove that they were employed by the respondent no. 1. He further submits that respondent no. 1 has not placed on record the license of contract to engage workers through contractor. He has invited my attention to the evidence of Director of the company. In the cross-examination, he admitted that he has not placed on record the copy of contract between the company and contractor to provide labours. Upon further question put up by the workers, he deposed that he did not produce the agreement because the record of the company was burnt in the fire incident. The witness has then deposed that he has not placed on record copy of the registration certificate issued by the Labour Commissioner for appointing contract labours. The witness has then admitted that the company and contractor had two different provident fund account numbers. However, in re-examination, the witness has clarified that at the relevant time, the contractor had no provident fund account and,

therefore, the contractor's provident fund amount was paid through the provident fund account of the company.

3. Learned counsel for the petitioners has accordingly argued that the aforesaid evidence is indicative of the fact that the petitioners were employed by the company but their names were shown on the muster of contractor. Learned counsel contended that this vital aspect has been ignored by the Labour Court, Bhandara in Reference Case No. 9/2012. Accordingly, the impugned judgment has been challenged.

4. Learned counsel for the respondent no. 1 has invited my attention to certain important facts that would justify the impugned judgment. The important and crucial facts have been noted by the Labour Court in paragraph nos. 22 to 26 which read thus :

> *"22. The reference of the party No. 2 is entirely based on his contention that his PF was deducted and deposited in the PF account of the party No. 1 (A). Section 6 of Employees Provident Funds and Miscellaneous Provisions Act, 1952 is very clear about deduction and depositing the PF by the Principal Employer in his PF Account, if the contractor has no PF account. It is not proved by the party No. 2 that the party No. 1 (B) had his separate PF Account yet PF was deposited in the PF account of the party No. 1 (A). Party No. 1 (A) has done nothing wrong by deducting and depositing in it's PF account as the Law itself enjoins him.*
>
> *23. To prove the contention that he was engaged by party No. 1 (A), the party No. 2 has not adduced any cogent evidence. In the contrary, party No. 1 (A) has filed on record it's muster*

Exh. 54 which proves that party No. 2 was not on the muster of it. Party No. 2 himself has pleaded in his statement of claim Exh. 3 that he was shown on the muster of party No. 1 (B). The Union had attempted to get the contract Labour system abolished of the factory of party No. 1 (A), but the State Government by order Exh. 59 dt. 09-02-2004 turned down its plea on the basis of advice of the Advisory Board as the factory of the Party No. 1 (A) is not financially sound. As per ***Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970****, the party No. 1 (B) was holding license Exh. 55 & 56 of contract labour.*

24. There were fire instances in the factory of the party No. 1 (A). Two fire brigade officials from Gondia and Tumsar filed documents Exh. 63, 64, 65, 66 and 67 and the party No. 2 admitted those documents. These documents corroborate the defence of the party No. 1 (A) that the documents are burnt in the fire. Moreover, though the reference has not been held stale, but it is a fact that the reference has been made after more than 18 years from the day of termination of services. Certainly, the documents will not be in exist after such a long period. According to the ***Rules of the Contract Labour (Regulation and Abolition) Act, 1970*** *the contractor is duty bound to maintain muster roll, wages register, deduction register and overtime register. However, the contractor, the party No. 1 (B) did not resist the case, so, no evidence has come on record about these documents.*

25. ***Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970*** *speaks about the registration of the establishment for contract labour. Had the party No. 1 (A) not registered its establishment u/s 7 of the Act 1970 for engaging contract labours, the State Government would not have denied to abolish the contract labour system of its factory.*

26. Ld. Counsel Shri. Raghorte argued that the Party No. 1 (B) was supervisor and not labour contractor, however, to support his argument, he has not filed on record any document.

In the contrary, the Party No. 1 (A) has filed License of contract Labours Exh. 55 & 56, copy of order in Complaint (ULP) No. 115/1993 dt. 22.02.2007 (Exh. 44), Evidence Exh. 97 of assistant Commissioner of Labour Shri. D. Duvvuri and Judgment Exh. 98 in the M. W. Application No. 1 of 1987 (filed in Ref. 02/2012) . These documents prove that the Party No. 1 (B) was license contractor and he used to supply contract labours to the Party No. 1 (A). He was not a supervisor in the factory of the Party No. 1 (A).”

5. As could be seen, the Labour Court has considered the arguments of the workers that their provident fund was deducted and deposited in the provident fund account of party no. 1(A) i.e. the company. The Labour Court has relied upon Section 6 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 to recognize and certify that the principal employer is duty bound to deduct and deposit the provident fund in the provident fund account of the employer, if the contractor does not possess provident fund account. The company’s witness has in re-examination clarified that at the relevant time, the contractor was not having provident fund account. In the circumstances, the company is fully justified in deducting and depositing the provident fund of the workers in the provident fund account of the company.

6. On the point of the company engaging petitioners through contractor without license, the company placed reliance upon the

proceedings initiated by the workers union to get the contract labour system abolished. The State Government vide order dated 9-2-2004 (Exhibit 59) turned down the workers' plea to abolish the contract labour system.

7. It appears that the union had approached the Advisory Board with a plea that the workers were doing perennial work but the company has appointed them through the contractor and accordingly requested to abolish the contract labour system in the establishment of the company and to regularize their services.

8. Thus the workers have admitted that their services were availed through the contractor. The Advisory Board recommended not to abolish the system. The State Government found substance in the recommendation and accordingly refused to accept the request made by the workers union.

9. The aforesaid fact itself is sufficient to hold that the company so also the contractor were holding requisite license to engage contract labours for running the affairs of the company. In addition, the Labour Court has relied upon licenses, Exhibits 55 and 56 of which license, Exhibit 55 is granted in favour of respondent no. 2 – contractor in terms of Section 12 of the Contract Labour (Regulation and

Abolition) Act, 1970 in respect of registered establishment, namely, Ellora Papers Mills Limited, Tahsil Mohadi, District Bhandara (Respondent No. 1 herein). Thus, the respondents were possessing requisite license to engage workers through contractor. There is, thus, no substance in the argument put forth by the petitioners that company had no authority to engage the workers though respondent no. 2 – contractor.

10. So far as non production of agreement between company and contractor, the Labour Court has taken cognizance of the incident of fire that occurred in the factory of respondent no. 1. The documents, Exhibits 63 to 67, supported the incident of fire. In fact the petitioners admitted these documents. Thus, there is evidence that company lost its record in the fire incident. The Labour Court has also taken cognizance of the fact that the reference was made after eigteen years of termination of service. Such long span could be sufficient ground to find substance in the company's plea that the record was lost.

11. Thus, there is ample evidence to show that the petitioners' services were availed by company through contractor and, therefore, the relationship of employer-employee between the petitioners and the company is absent. The Labour Court has thus rightly answered the

reference in the negative. I do not find any reason to interfere with the impugned order in the writ jurisdiction.

12. In addition, learned counsel Mr. Muley has submitted that company has been liquidated. The National Company Law Tribunal, Mumbai Bench vide order dated 26-6-2018 in MA 349/2018 in CP No. (IB) 716(MB)/2017 was pleased to approve the Resolution Plan as sought by the Insolvency Resolution Professional in terms of the Insolvency and Bankruptcy Code, 2016. Thus, it appears that the company under question has been liquidated.

13. In any case, since no substance is found in the petitions, the same stand dismissed.

14. Rule is discharged.

(Anil L. Pansare, J.)

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