



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.8293/2019

Maharashtra Sate Handloom Corporation, through its Managing Director,
Nagpur .Vs. Ramesh Vthhalaro Nagardhankar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. S. Khobragade, Advocate for petitioner.

Mr. S. G. Nigot, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : DECEMBER 18, 2024

On 29.08.2024, following order was passed.

“On 5/8/2024 following order was passed.

“Heard for some time. Learned counsel for the Petitioner submits that categorical plea was taken by the petitioner – Maharashtra State Handloom Corporation that the respondent does not fit in definition of “employee’ as provided in Section 3(13) of the Maharashtra Industrial Relations Act, 1946 (for short, ‘the Act of 1946’) and, therefore, the application filed by the respondent under Sections 78 and 79 of the Act of 1946 was not maintainable. Learned counsel states that this objection has been not dealt with and decided by both the Courts below.

Learned counsel for the respondent seeks time to prepare himself on this point. List in the week commencing from 26-8-2024.”

2. As could be seen, a specific case has been put up by the Petitioner that the courts below have not dealt with the objection raised by the Petitioner that the Respondent herein does not fit in definition of ‘Employee’, as provided under Section 3(13) of the Maharashtra Industrial Relations Act, 1946.

3. The learned Counsel for Respondent seeks time to make a statement whether the courts below have dealt with this objection.

4. Stand over to 19th September, 2024.”

2. Counsel for the respondent makes a statement that the objections so raised by the petitioner have been not dealt with by both the Courts below.

3. If that be so, the orders impugned are unsustainable inasmuch as the objections raised go to the root of the case in the sense unless the Courts below render a finding that the respondent herein is an employee as provided under Section 3(13) of the Maharashtra Industrial Relations Act, 1946, the application filed by him under Sections 78 and 79 of the Act of 1946, shall be not maintainable.

4. Accordingly, the petition is partly allowed. Impugned judgment and order dated 29.07.2019, passed by member, Industrial Court (Maharashtra), Nagpur Bench, Nagpur in Revision (BIR) No.1/2018 and judgment and order dated 27.11.2017 passed by First Labour Court, Nagpur in B.I.R. Application No.139/1997, are set aside.

B.I.R. Application No. 139/1997, is remanded back to the Labour Court, Nagpur, for consideration, afresh in accordance with law and what has been stated in the body of the order.

Parties shall appear before the Labour Court on 08.01.2025.

(Anil L. Pansare, J.)