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68-WP-3195-2021

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

68 WRIT PETITION NO. 3195 OF 2021

Ratan Kondiba Jogdand

VERSUS

The Maharashtra State Road Transport Corporation Thr. Its Divisional
Controller And Another

...

Mr. Dhiraj R. Jethliya, Advocate for the Petitioner.

Mr. Manoj D. Shinde, Advocate for Respondent No.1.

CORAM : KISHORE C. SANT, J.

DATE : 2nd DECEMBER 2025

PC :-

1. Heard Mr. Jethliya, the learned Advocate for the petitioner and Mr. Shinde, the learned Advocate for Respondent No.1. The petition is taken up for final disposal by consent of the parties at the stage of admission.
2. A small issue raised in this petition is that the learned Member, Industrial Court, Aurangabad has decided the Complaint (ULP) No. 32 of 2014 filed by the petitioner on merits without framing following preliminary issues; (i) whether the inquiry is properly conducted by giving fair opportunity; and (ii) whether there is any perversity in the

finding recorded in the inquiry.

3. It is the case of the petitioner that though it was very much necessary for the learned Member, Industrial Court to frame these two basic issues, the Court has directly proceeded on merits and dismissed the complaint. He relied upon the judgment in the case of *Divisional Controller, Maharashtra State Road Transport Corporation Vs. Bhushan Jagannathrao Bulbule*¹. He thus submits that the impugned judgment deserves to be quashed and set aside and the matter be remanded to the Industrial Court for a fresh decision on the issues including preliminary issue about inquiry report.

4. Mr. Shinde, the learned Advocate for the respondent vehemently opposed the petition. He submits that presently the Court has considered all the contentions of the petitioner on merits. There is no need to frame preliminary issue in such circumstances. It is seen that in the written statement filed by the respondent itself, it is prayed that the preliminary issue of illegality of inquiry and perversity of the finding be decided before proceeding on merits.

1 2018 (5) Mh.L.J. 936

5. In the case of *Divisional Controller* (supra), this Court considered various judgments of the Hon'ble Apex Court and other High Courts. It is laid down that the issue as to whether the preliminary inquiry is properly held and whether the finding recorded in the preliminary inquiry suffers from perversity needs to be considered and in view of that the complaint was remanded.

6. Considering above, there is not much dispute about the legal position as stated above. The petition therefore needs to be partly allowed directing the learned Member, Industrial Court to decide the complaint afresh by framing above two issues.

7. In view of the same, the impugned judgment and order dated 16th January 2018 passed by the learned Member, Industrial Court, Aurangabad in Complaint (ULP) No. 32 of 2014 is quashed and set aside. The complaint stands restored.

8. The learned Member, Industrial Court, Aurangabad to frame the basic issues and consider the same. Considering that the ULP is of 2014, it is expected to decide the complaint within a period of six months from

today.

9. The petitioner to pay deficit Court fees within a period of two weeks from today.

10. Parties to appear before the learned Member, Industrial Court, Aurangabad on 15th December 2025 without requiring fresh notice from the Court.

11. With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]

D.A.Ethape