

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

WRIT PETITION NO.18724 OF 2024

Prajyot Pralhad Parkale & Ors. ...Petitioners

Versus

The State of Maharashtra Through
its Secretary Ministry of Co-operation
Marketing and Textile & Ors. ...Respondents

WITH

WRIT PETITION NO.1684 OF 2025

Nilam Nandkumar Shitole alias
Nilam Dipak Kadam & Ors. ...Petitioners

Versus

The State of Maharashtra Through
its Secretary, Ministry of Co-operation,
Marketing & Textile & Ors. ...Respondents

WITH

WRIT PETITION NO.1685 OF 2025

Mahesh Sudam Kumbhar & Ors. ...Petitioners

Versus

The State of Maharashtra Through
its Secretary Ministry of Co-operation,
Marketing & Textile & Ors. ...Respondents

WITH

WRIT PETITION NO.1686 OF 2025

Chandrakant Appaso Handal & Ors. ...Petitioners

Versus

The State of Maharashtra Through
its Secretary Ministry of Co-operation,
Marketing & Textile & Ors. ...Respondents

WITH

WRIT PETITION NO.14218 OF 2024

Roshni Arun Wadghule alias
Sakshi S. Wanzare & Ors. ...Petitioners

Versus

The State of Maharashtra Through
its Secretary & Ors. ...Respondents

Mr. Suresh Pakale, Sr. Advocate a/w Mr. Nilesh Desai, for the Petitioners in WP/1684/2025.

Mr. Rohan Savant, 'B' Panel Advocate, for Respondent Nos.1&2 in WP/1684/2025.

Mr. P.P. Kakade, Addl. G.P. a/w Ms. P.N. Diwan, AGP for Respondent Nos.1 &2-State.

Mr. Joel Carlos, Advocate for Respondent No.3-PDCC in all Writ Petitions.

Mr. A.K. Naik, AGP for Respondent No.1&2-State in WP/1685/2025.

Mr. V.G. Badgujar, AGP for Respondent Nos.1&2-State in WP/1686/2025.

Ms. P.M. Joshi, AGP for Respondent Nos.1&2-State in WP/14218/2024.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 4th FEBRUARY, 2025

P. C.

1. We have considered the submissions of the learned Advocates for the respective sides. There is no dispute that the Respondent-Bank is a Co-operative Bank and the pleadings of the Petitioner indicate as under:

“The Petitioner states that the Co-operative banks though are registered under the MCS Act, and defined as Co-operative bank under the Act, they are private bank and they do not perform any public duty. These banks are not statutory authorities and they are not local bodies or authorities either controlled or financed by the State Government and are purely private entities registered as Societies under the Co-Operative Societies Act.”

2. The learned Senior Advocate is instructed to say that the Petitioners desire to withdraw the above reproduced portion.
3. We are not going into the above aspect for the reason that apparently, there is a serious dispute as to the manner of recruitment of these Petitioners through the Contractors, which can be summarised as under :-
 - (a) The continuation of the Contractual Employees.
 - (b) The change in the service conditions as and when the Contractor may have changed.
 - (c) The contention that many of the Petitioners could actually be Security Guards and are projecting themselves as Clerks and Cashiers after taking certificates from the Contractors for self-serving purposes.
 - (d) Completion of 240 days in the continuous and uninterrupted service of the Principal-employer.
 - (e) Supervision, control and direction of the Principal-employer on the contractual employees.
 - (e) Whether the contractors are sham and bogus, to camouflage the employer-employee relationship, to defeat the claims of the Petitioners?

4. The above issues that we have culled out are only illustrative in nature. The whole issue turns upon such aspects which would require recording of oral and documentary evidence since each Petitioner will have to prove his own case. The law laid down by the Hon'ble Supreme Court in ***Vividh Kamgar Sabha v/s. Kalyani Steels Limited and Another¹***, ***Cipla Limited versus Maharashtra General Kamgar Union and Others (MGKU)²*** and the judgment delivered by the Hon'ble Supreme Court (Five-Judges Bench) in the matter of ***Steel Authority of India Limited and Others Versus National Union Water Front Workers and Others³*** would be applicable. There are several judgments delivered in the light of these judgments.

4(a). *The Petitioners are making out a case of a sham and bogus Contractor and for which an industrial dispute under Section 3(17) r/w Section 42 of the Maharashtra Industrial Relations Act, 1947 (MIRA) will have to be raised before the Conciliation Officer. If the matter is referred to the Industrial Tribunal, which is what the law expects to happen in the face of such a dispute, it would be the Industrial Tribunal which would*

¹ 2001 I CLR 532

² 2001 I CLR 754

³ 2001 III CLR 349

decide the factum of relationship between the Principal employer (the Respondent Bank herein) and the Contractors.

5. The Learned Senior Advocate along with Mr. Nilesh Desai, Advocate for the Petitioners are under instructions to say that they would raise an industrial dispute and they further pray that this Court may direct the Conciliation Officer as well as the Respondent Bank and the Contractors, to co-operate in the hearings in conciliation. It is further prayed that if the matter is not resolved in conciliation and the industrial dispute is referred to the Industrial Tribunal, all contentions of the parties be kept open. The learned Advocates are also under instructions to pray that each and every Petitioner, who is before this Court, notwithstanding whether he has completed 10 years as a contractual employee or less, should be protected.

6. The learned Advocate for the Principal employer Bank submits that if these Petitioners are granted protection or continuance in service of the bank, it would amount to protecting backdoor entries. According to him, all these Petitioners are contractual employees. The terms of the contract between the Principal employer and the Contractor

would govern their service conditions. The Contractor is their actual employer and the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (**CLRA Act**) will be applicable.

7. He, therefore, vehemently opposes grant of any interim relief or continuation of the ex-parte ad-interim relief that was granted by this Court on 16th December, 2024 in Writ Petition No.18724 of 2024. He makes a serious grievance that this Petition was filed after the earlier Petition filed by the same Petitioners (Writ Petition No. 9245 of 2023) was withdrawn on 29th November, 2024 with liberty to file a fresh Petition. Since he had appeared in the said matter on behalf of the Principal employer, while moving the second Petition, he should have been intimated of the circulation and should have been delivered with a copy of the Petition.

8. In view of the above, **all these Writ Petitions are disposed off** with the following directions :-

(a) The limited ex-parte ad-interim relief granted by this Court on 16th December, 2024, would continue until 31st July, 2025.

(b) *All the Petitioners are at liberty to raise their industrial*

dispute through the representatives of the employees impleading the Principal employer as well as the Contractors in the said dispute.

(c) Since the learned Senior Advocate makes a mention of change in several Contractors, we leave this issue to the wisdom of the Petitioners as to who should be impleaded as a Respondent.

(d) *The industrial dispute shall be raised before the Conciliation Officer at Pune, on or before 28th February, 2025. A pre-intimation would be given by the Petitioners to the Principal employer as well as the Contractors, who may enter their appearances before the Conciliation Officer.*

(e) The Conciliation Officer shall verify and confirm as to whether all the contractors and the Principal employer have been served. He is at liberty to issue fresh notices to these parties by Speed Post (AD).

(f) On the returnable date in the matter before the Conciliation Officer, he shall initiate the conciliation proceedings by following the due procedure laid down in law and endeavour to complete the proceedings by 31st March, 2025. All the parties shall render whole hearted co-operation.

(g) If the conciliation proceedings fail, the Conciliation Officer shall follow the due procedure laid down in law by submitting the Failure Report within seven days, excluding public holidays, to the appropriate Government.

(h) If the appropriate Government finds the existence of an industrial dispute, he shall refer the dispute to the Tribunal within seven days.

(i) Along with the Statement of Claim (SOC), the Petitioners are at liberty to file an application for interim relief.

(j) We direct that the Principal employer as well as the Contractors, would respond to the application for interim relief with their written say/ written statement within fifteen days.

(k) Let the Interim Application be decided on its own merits, on or before 31st July, 2025 and without being influenced by the grant of ad-interim relief by this Court or any observations made by this Court in its

order,.

- (l) All contentions of the parties are kept open.

[ASHWIN D. BHOBE, J.]

[RAVINDRA V. GHUGE, J.]

This order is corrected as per speaking to the minutes order dated 18.02.2025 and Corrected portion is marked in italics.