

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

WRIT PETITION NO.4076/2013

The State of Maharashtra and Ors. .Vs. Rambhau Motiram Dhawale and ors.

AND

WRIT PETITION NO.6504/2013

The State of Maharashtra and Ors. .Vs. Karim Yakum Sayyad and Ors.

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

Court's or Judge's orders

Ms. K. P. Marpakwar, A.G.P. for petitioners.

Mr. N. R. Saboo, Advocate for respondents.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 26, 2025

The issue involved in both the petitions is common and, therefore, is decided together.

2. Having heard both sides, the question that requires answer is whether respondents are entitled for benefits of the provisions of the Government Resolutions dated 31.01.1996 and 16.10.2012. By these Government Resolutions, the Government has taken a decision to create 8038 + 5089 supernumerary posts of Daily Wager Forest Labourers, who had completed five years as on 01.11.1994 and by the second Government Resolution, those Daily Wager Forest Labourers, who had completed five years during the period from 01.11.1994 to 30.06.2004. The petitioners – Forest Department has denied the benefit, on the ground that they were employed through the Employment Guarantee Scheme (for short 'EGS'). The petitioners, however, failed to prove that respondent – original complainant were employed under the EGS.

3. The Industrial Court, Bhandara held that the petitioners – original respondents failed to prove that the respondents herein were employed through the EGS. In this regard, the only evidence, that was placed, is a chart by way of affidavit of the first witness of the petitioner. In his evidence, he has referred to a chart showing names

of respondents, who have been engaged through EGS. The petitioner's witness has deposed in the cross-examination that the respondents had never worked under his supervision. He admitted that he does not know anything that had occurred prior to 2011. He further admitted that he has prepared chart as per the instructions of the Range Forest Officer, Tumsar. He has then deposed that he does not know anything about the work done by the respondents. Thus, the witness has prepared chart on the instructions of the Range Forest Officer, Tumsar and had no personal knowledge as regards nature of employment.

4. The Industrial Court, in paragraph 15 has noted that the petitioners failed to tender justification whether the respondents were recommended by Tahsildar to work under the EGS. The Industrial Court further noted that the petitioners have admitted in written statement that the respondents have done work for more than 240 days (normally and under the EGS). The Court noted that initially the respondents were engaged on normal work but thereafter were provided work under the EGS though they were not working as EGS workers.

5. Thus, it appears that the petitioners have marked presence of the respondents under the head of EGS by maintaining separate muster register. Such a document prepared by the petitioners cannot be said to be an evidence of the respondents' employment under the EGS. The petitioners ought to have produced EGS details of the respondents, EGS monthly muster roll duly signed by the authority deputed to conduct EGS and other documents that would establish that the respondents were working under the EGS. The petitioners could have examined relevant witness from the EGS. Having not done so, the reason assigned by the petitioners to deny the benefits under the Government Resolutions of 1996 and 2012 would amount to unfair labour practice as held by the Industrial Court.

6. No interference, therefore, is called for in the impugned judgments. The writ petitions are dismissed. Rule discharged. No order as to costs.

(Anil L. Pansare, J.)

Kahale