



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

WRIT PETITION NO. 4489 OF 2025

1. Executive Engineer, Maharashtra Jeevan Pradhikaran, Murtizapur Road, Ner Water Tank, Akola, Tahsil and District Akola.
2. Sub-Divisional Officer, Maharashtra Jeevan Pradhikaran, Sindhi Camp, In front of Zunzunwala Guest House, Akot, Tahsil Akot, District Akola.
3. Branch Engineer, Maharashtra Jeevan Pradhikaran, Sindhi Camp, In front of Zunzunwala Guest House, Akot, Tahsil Akot, District Akola.

PETITIONERS

VERSUS

Sk.Shahrukh Sk.Mustafa,
R/o Balegaon,
Tahsil Akot, District Akola.

RESPONDENT

Shri D.M. Kakani, Counsel for the petitioners.
Shri S.T. Harkare, Counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : SEPTEMBER 22, 2025

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

2. The petitioners have challenged the award dated 07.05.2025 passed by the Labour Court, Akola in reference proceedings by which the petitioners are directed to reinstate the respondent with continuity in service and to pay 25% backwages. Assailing the impugned order, the learned counsel for the petitioners has mainly prayed for the remand of the matter.

3. The brief facts giving rise to the writ petition are stated thus :-

The respondent is an employee who has submitted reference to the Assistant Commissioner of Labour, Nagpur to adjudicate the dispute of his

termination from service. Since the dispute was not settled, a reference under sub-Section 1 of Section 10 of the Industrial Disputes Act, 1947 was made before the Labour Court, Akola and accordingly, the proceedings were started. The petitioners herein appeared as party no.1 in the dispute and filed their written statement. The evidence was led by the respondent-Employee, who claimed that he was working with the petitioners and demanded production of various documents. The petitioners, who were represented by a lawyer failed to produce any document and even failed to adduce any evidence in support of their case. After the evidence of the respondent-Employee was over, the counsel representing the petitioners filed a pursis dated 13.02.2025 thereby stating that the petitioners do not want to lead any evidence. The reference case was accordingly decided finally and the award was passed without there being any evidence on the part of the petitioners on record. The reference came to be answered affirmatively and the respondent-Employee was directed to be reinstated with continuity in service and 25% backwages. Raising serious allegations against the counsel who had represented the petitioners before the Labour Court, the instant writ petition is filed seeking to challenge the impugned award passed by the Labour Court and claiming for remand of the matter to afford an opportunity to lead evidence to the petitioners.

4. Shri D.M. Kakani, learned counsel for the petitioners submitted that the petitioner-Maharashtra Jeevan Pradhikaran is a Government body and a Board constituted by the Government of Maharashtra in accordance with the provisions of the Maharashtra Jeevan Authority Act. It is submitted that

in order to implement various schemes for supply of drinking water in the State of Maharashtra, various tenders are floated on regular basis and contracts are awarded to different agencies. It is stated that in terms of the contracts with independent agencies, they are empowered to employ persons at their end and thus the persons who are employed by the contractor are the employees of the said contractors. It is submitted that the respondent was never employed by the petitioners and this fact was reflected from ample documentary evidence in the nature of agreement-contract with the contractors and documents demonstrating employment of the respondent with the said contractor. It is stated that the petitioners were represented by a lawyer, who without seeking any instructions acted against the interests of the petitioners and submitted a pursis informing thereby that the petitioners do not want to lead any evidence. It is submitted that the concerned lawyer played mischief with the petitioners, a Government body, thereby burdening the petitioners with responsibility to reinstate and pay backwages to the respondent. He invited attention of the Court to the averments made in the petition pointing out the mischief played by the concerned lawyer and the communication issued by the petitioners to the concerned lawyer pointing out his mischievous acts in conducting the proceedings. He further submitted that since the petitioners have been deprived of being represented properly, the matter needs to be remanded in the interest of justice.

5. In support of his submissions, by placing reliance on the judgment of the Apex Court in *Rafiz & Another Versus Munshilal & Another*

[1981(2) SCC 788], which is followed by the Single Bench of this Court at Aurangabad in *Narayan Gangadhar Yewale Versus The Additional Commissioner, Nashik Division & Others* [Writ Petition No.534 of 2016], the learned counsel for the petitioners has submitted that the Government Body, i.e. petitioner-Maharashtra Jeevan Pradhikaran need not be put to prejudice on account of misconduct of their lawyer.

6. Per contra, Shri S.T. Harkare, learned counsel for the respondent opposed the petition. He submitted that the petitioners had all the opportunity to produce the relevant documents and lead evidence before the Labour Court and their conduct in blaming their lawyer is an attempt to avoid compliance of the impugned order. He submitted that the officials of the petitioners ought to have been diligent in prosecuting the matter and giving proper instructions to their lawyer. He also submitted that there is no perversity with the impugned order and prayed for dismissal of the writ petition.

7. The controversy involved in the instant writ petition at this stage, considering the submissions advanced by the parties, is about need for remand of the matter. The documents on record indicate that the petitioners had filed their written statement in the reference proceedings and were represented by a lawyer. It is clear that the petitioners had taken a stand that the respondent-Employee was never engaged by them through any recruitment process and there exists no employer-employee relationship between the Board and the respondent-Employee. A perusal of the case put up by the respondent including evidence submitted before

the Labour Court shows that he had claimed that there was no recruitment advertisement and he had no appointment order and further that he was being paid the salary by cash. The documents on record also reveal that the Board issued the tender notice in response to which various contracts are being entered authorizing the contractors to engage employees for carrying out various works. As such, the issue as to whether the employees engaged by the contractor had an employer-employee relationship with the Board became very crucial. The petitioners had in their custody various documents to prove the absence of any employer-employee relationship between the Board and the respondent, and therefore, they are entitled to prove their case by adducing evidence in that regard. The record shows that no evidence was led on behalf of the petitioners and their lawyer had straightway submitted a pursis stating that they do not desire to lead any evidence. In this regard, the petitioners have categorically stated on affidavit in the writ petition that they had not given any instructions to the concerned lawyer to file such kind of pursis and that the said lawyer had played mischief with the petitioners. A communication dated 28.07.2025 (Annexure-19) issued by the Board to their lawyer confronting with the alleged misconduct is also placed on record. On an overall consideration of all these documents, it appears that the petitioners desire to contest the reference proceeding on merits by leading evidence. However, on account of their lawyer's failure to contest the proceedings on merits, they are ultimately put to prejudice.

8. On an overall consideration of the submissions advanced by the parties, it appears that the petitioners desire to contest the case on merits by leading evidence. The petitioners have got sufficient documentary evidence to contest their case on merits. However, on account of fault of their lawyer, relevant evidence could not be produced on record. In view of the letters issued to their lawyer pointing out his negligent behaviour in conducting the proceedings, the petitioners are entitled to initiate appropriate action for the alleged misconduct. However, as regards the case in question, particularly considering the consequences of the impugned order directing reinstatement with 25% backwages, I am of the view that a case is made out seeking remand of the matter to the Labour Court.

9. Even the position of law laid down in the judgments relied upon by the counsel for the petitioners shows that on account of a fault of the lawyer, the parties should not suffer. In the instant writ petition, the petitioner-Maharashtra Jeevan Pradhikaran, which is a Board constituted by the Government of Maharashtra has come up with a specific case that there was no recruitment in which the respondent was ever employed. As the petitioners have demonstrated the consequences suffered by them on account fault of their lawyer, they are entitled for an opportunity to contest the case on merits. Although the respondent-Employee claims that the petitioners have not complied with the impugned order and the remand will unnecessarily put him to contest the proceedings afresh, interest of justice will be subserved by imposing costs upon the petitioners to compensate the hardship of the respondent-Employee.

10. Having regard to the overall factual and legal aspects mentioned above, the impugned order passed by the Labour Court is quashed and set aside. The matter is remanded to the Labour Court for deciding the reference proceedings afresh after giving an opportunity to both the parties to file necessary documents and lead evidence subject to payment of costs of Rs.10,000/- to the respondent within a period of two weeks from today. The Labour Court, Akola is directed to decide the proceedings finally within a period of six months from the date of receipt of this judgment. It is made clear that the instant writ petition is decided only on the point of remand and this Court has not dealt with any point on merits of the matter. All issues on merits are kept open.

11. Rule is made absolute in aforesaid terms. The writ petition stands disposed of.

(PRAFULLA S. KHUBALKAR, J.)