

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7439 OF 2025

Teachers Co--operative Credit Society Ltd., Thr Its Secretary

VERSUS

Pavankumar Mahadeo Choure

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Advocate for the Petitioner : Mr. A.A. Nimbalkar h/f Mr. Salunke
Vasant Digambarrao

Advocate for Respondent : Mr. R.D. Khadap

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MARCH 04, 2026

PER COURT :-

1. Present petition takes exception to order dated 28.04.2025 passed by Member, Industrial Court, Aurangabad in Revision (ULP) No.28 of 2024, thereby upholding order dated 30.03.2024 passed by learned Judge, Labour Court, Aurangabad in Complaint (ULP) No.02 of 2014, whereby petitioner is directed to reinstate respondent in service along with back-wages.

2. Mr. Nimbalkar, learned advocate appearing for petitioner would raise following three legal objections to impugned order. He would submit that Labour Court had no jurisdiction to entertain the complaint made against petitioner/co-operative society. The dispute could have been filed before Co-operative Court. He would further submit that the Chairman of society was necessary party. However, he was not joined as party, therefore, proceeding is vitiated. Thirdly, he submits that back-wages have been erroneously awarded in absence

of insufficient material on behalf of complainant to indicate that he was not gainfully employed.

3. So far as first objection to jurisdiction of Labour Court is concerned, it cannot be disputed that complainant falls within the definition of “workmen”. The controversy is purely as regards to illegal termination/discharge of services of respondent. It cannot be recognized as “dispute” within meaning of Section 91 of Maharashtra Co-operative Societies Act. Apparently, aforesaid objection was not even raised before Labour Court or Industrial Court and same is sought to be raised first time in this petition. This Court did not find any substance in objection. Hence, it is liable to be rejected.

4. The second objection is that Chairman of society was not added as party. Pertinently, society is made party through Secretary. Although Chairman is party to resolution regarding termination of service of respondent, the complaint was filed against society, who is represented through the Secretary. It cannot be said that Chairman of society in person is necessary party to decide the dispute, hence, second contention is also not acceptable. The third contention raised that Labour Court has awarded back-wages without evidence on part of complainant depicting his non-employment. Perusal of pleadings and evidence would show that respondent/employee has specifically made a statement that he was not gainfully employed during pendency of complaint. He was cross-examined on behalf of

petitioner, however, there is no suggestion to say that he was gainfully employed or earning his livelihood by any alternate employment. Once, the respondent/complainant had made a specific statement during course of evidence that he was not gainfully employed, it was burden upon petitioner/employer to show that he was gainfully employed.

5. Mr. Khadap, learned advocate appearing for respondent rightly relied upon observations of Hon'ble Supreme Court in case of *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidlaya (D.ED.) and Others* reported in *(2013) 10 SCC 324* in support of his contention that once it is proved that termination is illegal and employee was not gainfully employed, back-wages follows.

6. In result, writ petition sans merit, hence, dismissed.

(S.G. CHAPALGAONKAR, J.)