

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 893 OF 2026

Jyotirling Nagari Sahakari Pathsanstha
Ltd Borgaon Through Its Chiarman ...Petitioner

Versus

Haibatrao Bhimrao Patil ...Respondent

...

*Mr. Sanadiip Mutaalik, Advocate a/w Mr. Simran Sameena and Ms.
Ketaki Sahastrabudhe, Advocates for Petitioner*

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 4th MARCH, 2026.

PC:

1. The petitioner raises an exception to the order dated 2nd August 2025 rendered by the Judge, Labour Court, Sangli, rejecting the request of the petitioner to frame the preliminary issue in relation to the status of complaint as an employee as contemplated under Section 2(s) of the Industrial Disputes Act, 1947.

2. The learned counsel for the petitioner submits that the issue in relation to the determination of the status of employee goes to the root of the matter as such it has to be decided at a preliminary stage and in isolation. In the process, the learned counsel for the petitioner has placed reliance on the order of this Court in *Johnson and Johnson*

Private Limited Vs. Kawaljeet Singh in Writ Petition (ST) No.92672 of 2020 as well as the verdict of the Hon'ble Apex Court, in the case of ***Hussan Mithu Mhasvadkar Vs. Bombay Iron & Steel Labour Board & Another.***¹ in support of his contention.

3. Upon hearing learned counsel for the petitioner, it is apparent that the employee has approached the Labour Court in the year 2021. Although the written statement was presented, however, the issue of framing preliminary issue was raised at a belated juncture by presenting an application below exhibit C-20 in the year 2023 i.e. precisely on 26 June 2023. By the said time, the proceeding travelled to the stage of framing of issue and in the process, the cross-examination of one of the witnesses cited on behalf of complainant is also conducted.

4. At this juncture, it would be appropriate to make necessary reference to the Three Judge bench of the Apex Court in the case of ***D. P. Maheshwari Vs. Delhi Administration & Ors.***² paragraph No.1 of the said judgment is reproduced herein below :

“It was just the other day that we were bemoaning the unbecoming devices adopted by certain employers to avoid decision of industrial disputes on merits. We noticed how they would raise various preliminary objections, invite decision on those objections in the first instance, carry the matter to the High Court under Article 226 of the

1 (2001) 7 Supreme Court Cases 394.

2 (1983) 4 Supreme Court Cases 293

Constitution and to this Court under Article 136 of the Constitution and delay a decision of the real dispute for years, sometimes for over a decade. Industrial peace, one presumes, hangs in the balance in the meanwhile. We have now before us a case where a dispute originating in 1969 and referred for adjudication by the Government to the Labour Court in 1970 is still at the stage of decision on a preliminary objection. There was a time when it was thought prudent and wise policy to decide preliminary issues first. But the time appears to have arrived for a reversal of that policy. We think it is better that tribunals, particularly those entrusted with the task of adjudicating labour disputes where delay may lead to misery and jeopardise industrial peace, should decide all issues in dispute at the same time without trying some of them as preliminary issues. Nor should High Courts in the exercise of their jurisdiction under Article 226 of the Constitution stop proceedings before a tribunal so that a preliminary issue may be decided by them. Neither the jurisdiction of the High Court under Article 226 of the Constitution nor the jurisdiction of this Court under Article 136 may be allowed to be exploited by those who can well afford to wait to the detriment of those who can ill afford to wait by dragging the latter from court to court for adjudication of peripheral issues, avoiding decision on issues more vital to them. Article 226 and Article 136 are not meant to be used to break the resistance of workmen in this fashion. Tribunals and courts who are requested to decide preliminary questions must therefore ask themselves whether such threshold part-adjudication is really necessary and whether it will not lead to other woeful consequences. After all tribunals like Industrial Tribunals are constituted to decide expeditiously special kinds of disputes and their jurisdiction to so decide is not to be stifled by all manner of preliminary objections and journeyings up and down. It is also worthwhile remembering that the nature of the jurisdiction under Article 226 is supervisory and not appellate while that under Article 136 is primarily supervisory but the court may exercise all necessary appellate powers to do substantial justice. In the exercise of such jurisdiction neither the High Court nor this Court is required to be too astute to interfere with the exercise of jurisdiction by special tribunals at interlocutory stages and on preliminary issues.”

Thus, there is an embargo to entertain a petition against interlocutory interventions in orders rendered by special Tribunals. In the present case, the Learned Labour Court has already considered the petitioner's say and proceeded to frame the relevant issues, including additional issue. The petitioner's insistence that their objection be

considered in isolation runs contrary to the established observations of the Hon'ble Apex Court, in the case of *D. P Maheshwari (supra)* and, therefore, cannot be sustained.

5. The judgments relied upon by the petitioner does not lend the support to the contentions, as those cases involved proceedings that had already concluded before a Special Tribunal. Conversely, the petitioner here seeks this Court's intervention at an interlocutory stage, which is impermissible. Admittedly when the proceeding have traveled substantially and reached to the stage of cross-examination, as such, request of the petitioner at this stage to frame preliminary issue and decide the same, does not warrant consideration.

6. In view of the aforestated circumstances, I am of the considered view that the petition sans merit and does not warrant interference.

7. Accordingly, the writ petition stands dismissed with costs since the proceedings before the tribunal are delayed for unjustified reasons. As such, cost of Rs.5,000/- (Rs. Five Thousand) to be paid by the petitioner to the respondent, within a period of four weeks from today.

[SACHIN S. DESHMUKH, J.]

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