

**BEFORE THE MEMBER INDUSTRIAL COURT, MAH., AT SANGLI**

**Complaint (ULP) No.05 Of 2020**

Shri Prataprao Keshavrao Dubal ..Complainant  
V/s  
1) Vasantdada Shetkari Sahakari Sakhar  
Karkhana Ltd., and Ors. ..Respondents

**Order Below Ex.U-6**

(Date : 4<sup>th</sup> May 2022)

This application at Ex.U-6 came to be filed by the complainant seeking direction to the respondents to produce documents in the present complaint which are in their custody. The complainant has sought documents of all the original wage registers of all the workers including complainant during the period 2003 to 2014, original documents of bonus register / record of all the workers including complainant during the period 2003 to 2014 and original leave register of all the workers including complainant during the period 2003 to 2014. According to complainant, the present complaint has been filed by the complainant demanding unpaid wages, bonus, leave wages etc. from the respondents. The respondents vaguely denied the said liability in its written statement. The respondent has maintained all the record pertaining to the said documents of all the workers in its custody. The documents are best possible evidence available with the respondent which are required to be produced in the present case and the same are necessary to decide real

controversy in the matter.

2. The respondent No.1 has filed say at Ex.C-4 on the said application. It is contended that respondent sugar factory has been taken into possession by Sangli DCC Bank Ltd. towards the recovery of dues and thereafter the said factory is given for running on lease basis on the agreed lease rent for the period of ten years from July 2017 onwards to respondent No.2-Datta India Pvt. Ltd. The respondent is not in possession of the sugar factory nor is presently running the same. The complainant was employee of respondent No.1 who has retired long back and received all the legal dues as also gratuity amount. So far as demand of three documents are concerned the respondent has stated that complainant stood retired from the respondent prior to 2017. The respondent is not bound to maintain any record beyond ten years in accordance with Factories Act and on this count also the demand is not tenable. The respondent is passing through critical condition during 2010 onwards and struggling for survival and ultimately resulted into taking over possession of factory under Securitisation Act by financial institution in the year 2017. In the intervening period many times the factory could not run. It is also contended that the respondent has tried to trace out the record but it could not trace the record for the period from 2010 onwards and it is not traceable. It is further contended that complainant is trying to conduct roving and fishing enquiry without there being any evidence

on record. Therefore, the respondent prayed to reject the demand of the complainant.

3. The respondent No.2 has filed its say on the said application at Ex.C-5 claiming that respondent has raised preliminary objection of no employer-employee relationship as respondent No.1 factory was taken on lease basis for the period of ten years in the tender process initiated by Sangli DCC Bank. Without deciding preliminary objection raised by respondent No.2 this application cannot be considered. So far as demand of documents are concerned it is contended that all the workers including the complainant were the employees of Vasantdada Shetkari Sahakari Sakhar Karkhana and the complainant was retired from the services of respondent No.1 prior to 2017. Hence no demand can lie against respondent No.2. It is further contended that since the complainant was not in the employment between 2017 to 2020 he cannot claim documents for the period 2017 onwards. Therefore, the respondent prayed to reject the application of the complainant.

4. The complainant has filed rejoinder at Ex.U-7 and the respondent has also filed his say on rejoinder at Ex.C-9. I have perused the application, say and rejoinder and say filed thereon.

5. Heard both the learned advocates. It is submitted by learned advocate Mr.D.S.Yadav for complainant that to maintain record of wage register, bonus register and leave register is a statutory duty

and burden of respondent. It is submitted that admittedly factory was given on lease basis to respondent No.2-Datta India Pvt. Ltd. for ten years from 2017 and therefore there is admittedly lease agreement was entered into between the parties. According to complainant vague submissions are being made that record is not maintained beyond ten years and record is not traceable. It is submitted that the respondent has not come with the case that record is destroyed. It is also submitted that relationship of employer-employee relationship is continued with respondent No.2. According to complainant there is computer system in which record is maintained vis-a-vis manual system and it is not possible to say that record is not traceable or destroyed. The matters of employees are pending in court since long and the respondent is aware about pendency of litigation. Hence it cannot lie in their mouth that record is destroyed. In support of its contentions, the complainant has relied upon following Judgments.

- (i) Z.P.Steering Gears (India) v/s Ramchandra S. Tapkir (2006 II CLR 526 – Hon'ble Bombay High Court)**
- (ii) Surrendra Industries Ltd., Thane v/s A.L. Alaspurkar, Member, Industrial Court, Thane (2002 III CLR 736 – Hon'ble Bombay High Court)**
- (iii) Rashtriya Hatmag Yantramag Kamgar Sangh v/s K.D. Kochargaonkar and Ors. (2000 I CLR 917- Hon'ble Bombay High Court)**

6. *Per contra*, it is submission of learned advocate Mr.S.S. Mutalik for respondents that respondent No.2-Datta India Pvt. Ltd. has acquired possession of the factory being highest bidder. The complainant is retired prior to agreement entered into between Sangli DCC Bank, respondent and respondent No.2- Datta India Pvt. Ltd. The complainant is well aware about it. Lease period is only of 10 years and assets of respondent No.1 are not sold to respondent No.2- Datta India Pvt. Ltd. It is submitted that there is no relevancy in the demand made by the complainant and the complainant has engaged into roving and fishing enquiry. Therefore, in the light of law laid down by Hon'ble Supreme Court in the case of **The 20<sup>th</sup> Century Fox Corporation v/s F.H. Lal and Ors.(1974 III LLJ 156–Hon'ble Bombay High Court)**the application demanding document is liable to be rejected. It is also submitted that Judgments relied upon by the complainant are not applicable as facts in the said case are different from the facts of present case. Therefore, all the documents are demanded only for fishy enquiry and to harass the respondent. Therefore, the said application is liable to be rejected.

7. In reply, it is submitted on behalf of complainant that complainant is claiming monetary benefits which are not paid. It is submitted that there is no roving and fishing enquiry as specific documents are called for which are pertaining to the complainant. It is submitted that all the documents are in the custody of the

respondents and it is best possible evidence which is required to come on record to decide mutual rights of the parties. Hence no harm would be caused to respondents by producing said document. Hence it is submitted to allow the said application.

8. Having heard both the parties, I have gone through the record of present complaint. This complainant is claiming that he was working with respondent since 3/04/1990 till his retirement dt.30/06/2014 on the post of Mill Turbine Attendant and has rendered clean and unblemished services with the respondent. The complainant alleged unfair labour practice under item 9 and 10 of Sch.IV of the MRTU & PULP Act, 1971 against the respondents by not paying earned wages, allowances and allied financial benefits to the complainant which includes wages since September 2003 to July 2004 and August 2004 to August 2005, arrears of wages since September 2005 to September 2007 and wages since April 2009 to May 2010 and of June 2014 as also bonus for the period 2002 to 2014.

9. The respondent No.1 has filed written statement at Ex.C-10 and respondent No.2 has filed written statement at Ex.C-7. On perusal of contents of written statements it appears that respondents have denied the contention of the complainant about any dues remained unpaid to the complainant and it is also contended that complainant is not entitled to the bonus. On perusal of pleas of the parties taken in their respective pleadings it can be seen that the documents which

are claimed by the complainant are relevant for the purpose of deciding the complaint finally on merit. However, the complainant has claimed all the wage registers, bonus registers, record, original leave registers for the period 2003 to 2014 with respect to all the workers. The complaint is pertaining to a particular complainant and not with respect to all workers. Hence the complainant cannot claim documents with respect to all the workers. The demand of said document cannot be termed as roving and fishing enquiry as held by Hon'ble Bombay High Court in the case of *The 20<sup>th</sup> Century Fox Corporation* (supra). In the case of The 20<sup>th</sup> Century Fox Corporation the union had demanded documents like Balance Sheet, Profit and Loss A/c, franchise agreement, number of bookings and billings, sums advanced by employer to various theaters in India etc. The Hon'ble Bombay High Court has held that there is no relativity between officers and workmen can have any bearing on the financial capacity of the company and it is not open to the union on principle of equity to question the business of the employer in employing officers. The circumstances involved in the said Judgment are different from the present case in as much as in the present matter the complainant is claiming the documents related to his claims made in the complaint. It is not the case of the respondents that the documents are destroyed. In the reply, the respondent has not contended about any harm would be caused to them by production of said document. Therefore,

I hold that the respondents are required to be directed to produce wage registers, leave registers, bonus register as claimed in the application by the complainant. However, the said document can be produced only with respect to complainant. Therefore in the light of aforesaid discussion, I proceed to pass the following order.

**Order**

- (i) Application at Ex.U-6 is partly allowed.
- (ii) The respondent is directed to produce documents of wage register, bonus register and leave register for the period 2003 to 2014 only with respect to complainant in court on or before next date.
- (iii) Dictated and pronounced in the Open Court.



Sangli.

Date : 4<sup>th</sup> May 2022.

(D.M. Patil)  
Member,  
Industrial Court Sangli