

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

Complaint (ULP) No.69 Of 2019

Shri Apsar Karim Tamboli
A/p : Kavathe Mahankal,
Tal. : Kavathe Mahankal, Dist. : Sangli. ..Complainant

V/s

Managing Director,
Shree Mahankali Sahakari Sakhar Karkhana
Ltd., Rajarambapunagar, Kavathe Mahankal
Tal. : Kavathe Mahankal, Dist. : Sangli. ..Respondent

Order Below Ex.U-6
(Date : 22nd August 2022)

By filing this application the complainant has prayed to direct the respondent sugar factory to produce documents of all the original wage registers of all the employees including complainant for the year 2004 to 2008 and original wage registers regarding share deduction of Mahakali Bazar and Mahakali Milk Society. According to complainant the present complaint came to be filed regarding unpaid wages, arrears of wage rise, share capital deduction. The said demand has been denied in written statement by the respondent. The complainant alleges that the respondent being an employer is having custody of all record, registers, documents regarding wages of employees, leave salaries and other legal dues. Since the documents are in the custody of respondent the same

needs to be filed in the present matter in order to decide matter on merit.

2. The respondent by filing say at **Ex.C-12** has resisted the application saying that the complaint itself is not maintainable due to absence of relationship of employer-employee, barred by limitation and the alleged claim is vague. It is further contended that complainant stood retired from the services of respondent. He is claiming amount under presumption of agreement benefit. However, said agreement was took place long back and also stood terminated. It is further contended that the claim of document is pertaining to beyond 10 years and are not maintained. It is further the case of the respondent that the sugar factory is in possession of Sangli DCC Bank under the Securitisation Act, 2002 and record is not available with karkhana and hence the respondent is not in a position to know the exact position of demands demanded by the complainant. Therefore, respondent prayed to file reply at later point of time upon their access to the office. Lastly, the respondent prayed to reject the application.

3. Heard both the parties at length. Perused complaint, application demanding the documents and reply filed by the respondent. On perusal of complaint it is clear that complainant has alleged that he is serving with the respondent

karkhana since long on the post of Helper and he resigned from the said job on 5/09/2009. The complainant alleges non-receipt of arrears of wage rise given under settlement with the union, non-receipt of retention wages, also alleges non-receipt of share capital deduction of Rs.2000/- which was taken from the complainant.

4. I have also gone through the documents demanded in the application **Ex.U-6**. The complainant has demanded original wage registers of all the workers for the period 2004 to 2008 for the period of season and off season and record about share capital deduction.

5. So far as demand of record regarding share capital deduction it do not pertains to demand of legal dues of the workers. Share capital deduction is being made from the members of co-operative society and hence it prima facie can be demanded before appropriate forum. However, the demand of documents regarding wage registers is in consonance with the reliefs claimed in the complaint. Now the respondent claims that the respondent karkhana is taken in possession by Sangli DCC Bank under Securitisation Act, 2002 and that respondent has no access to the office. However, the respondent has not produced any document to show that Sangli DCC Bank has seized property of respondent alongwith

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all its record. Moreover, the reply is not supported by verification of any authorised person of karkhana nor supporting affidavit is filed on record.

6. It can be also appreciated that it is always open to respondent to request the bank and to bring out the record pertaining to the workers, since it is not useful for the bank. Under such circumstances, I do not agree with the submission made by the respondent that record is not available. Even on perusal of written statement it can be seen that the respondent claimed to have paid some of the dues of the complainant claimed in the complaint. On perusal of this contention raised in the written statement it appears that same has been filed on the basis of record available with the respondent. Hence I do not agree with the contention of respondent that record is not available and same is not maintained.

7. However, since it is an individual complaint of single employee he is not justified in demanding record of all the workers. Hence demand should be restricted to the complainant only. In the light of aforesaid discussion, following order is passed.

Contd....

Order

- (i) Application at Ex.U-6 is partly allowed.
- (ii) The respondent is directed to produce documents at sr.no.1 as demanded in the application of the complainant at Ex.U-6.
- (iii) Demand at sr.no.2 regarding shares deduction register stands rejected.
- (iv) Dictated and pronounced in the Open Court.



Sangli.

Date : 22nd August 2022.

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