

BEFORE THE PRESIDING OFFICER, SECOND LABOUR COURT
AT AURANGABAD

(Presided over by Shri. S. S. Sahasrabudhe)

Ref IDA No.45/2018
CNR NO.MHLC200004622021

The General Manager,
Maharashtra Gramin Bank,
Plot No.35, "Jeevanshree" Sector-G,
Town Centre, Cidco, Aurangabad.

..First Party

V/s.

01. **Pandit S/o. Totaram Vispute**
02. Shaikh Samshoddin Maheboob Pathan,
03. Sukhdev S/o. Trimbak Aher
04. Raju S/o. Bansi Gaikwad
05. Shaikh Atkalikar Alim Hyder
06. Bhimrao S/o. Govindrao Chouthmal
07. Rameshwar Satyavan Borade
08. Ganesh S/o. Jagannath Sonawane
09. Devidas S/o. Aba Nikam
10. Santosh S/o. Karbhari Bagul,
11. Ratan S/o. Sakharam Salve
12. Faridabi Abdul Rehman Pathan
13. Suresh Nagorao Raut
14. Bhalchandra S/o. Punjaram Ragade
15. Appasaheb S/o. Limbaji Sukhase
16. Rohan S/o. Kanta Mahajan,
17. Datta Kisanrao Korade
18. Sanjay S/o. Pralhad Ankushe
19. Asaram S/o. Vitthalrao Naherkar
20. Somnath S/o. Vishwanath Harkar
21. Arun S/o. Shamrao Khotkar
22. Shriram S/o. Laxman Tangde
23. Deepak Subhash Solunke
24. Dhondiram Madhukar Pathade
25. Baban S/o. Tukaram Dabhade
26. Umesh S/o. Chandrakumar Gondikar

27. Shaikh Taufik Shaikh Rafik,
28. Balasaheb Sahebrao Jawale,
29. Sachin Mojesh Aswale
30. Ramesh Bhanudas Bankar
31. Balasaheb Marutirao Kale

... **Second Parties**

Appearance :

Shri. P. P. Shahane, Advocate for First party
Shri. B. R. Kawre, Advocate for Second parties.

Order below Exh.C-42

(Passed on this 11th day of January, 2023)

1. The first party has filed this application for deciding issue of territorial jurisdiction as a preliminary issue. It is submitted that, Hon'ble Supreme Court in *V.G. Jagdishan Vs. Indofast Industries Ltd.*, reported in *2022 (II) CLR 833* has held that, the issue regarding territorial jurisdiction of Labour Court was rightly decided as a preliminary issue. In view of said ratio in that decision first party submits that issue of territorial jurisdiction also can be decided as a preliminary issue in this case. It is also submitted that the first party has specifically raised that issue in their written statement. The Court has already framed issue in that regard. In view of above referred case law the issue of jurisdiction can be decided as a preliminary issue.
2. Ld.Counsel for the party no.1 argued that, issue of territorial jurisdiction can be decided as a preliminary issue. In view of his submission he relied on *District Sports Council Vs. Zilla Krida Sankul Karmchari Sanghatana* reported in *2022 III CLR 370*, wherein it was held that, "Nagpur Industrial Court is having

jurisdiction to entertain the complaint of employees of District Sports Council working in Nagpur and Wardha District only. The complaint of employees of other districts is not maintainable before Nagpur Industrial Court.”

3. On the other hand second party has filed say at Exh.U-98. It is submitted that, the Head office of first party bank is situated at Aurangabad. It is also submitted that, the appropriate Government has after considering the failure report dated 4.9.2015 sent the dispute to Labour Court, Aurangabad for adjudication. The first party has challenged the order of reference before Hon'ble High Court by filing Writ Petition No.7084/2019. But the said writ petition was withdrawn by the first party. It is argued on behalf of second party that, the appropriate Government has referred the dispute for adjudication. Therefore, it is necessary for the Court to decide the said issue. Ld.Counsel for the second party further argued that, once a reference has been referred to the Court, it is necessary for the said court to decide said controversy. In support of his submission, Ld.Counsel for second party relied on ***Jaybhagwan Vs. Management of Ambadas Central Co-op.Bank*** reported in ***Law Finder Doc.# 90670***, wherein it was held by Hon'ble Apex Court that, *“Industrial Tribunal to whom the dispute has been referred for adjudication cannot refuse to adjudicate upon it and surrender jurisdiction to which it undoubtedly has to some other authority.”*
4. Ld.Counsel for second party also placed his reliance on ***Oshiar Prasad Vs. Employees in relation to management of***

Sudamdih Coal Washeri, reported in *Law Finder Doc.ID # 647012*, wherein it was held that, the Tribunal while answering the Reference has to confine it's inquiry to the questions referred and has no jurisdiction to travel beyond the questions and the terms of reference while answering the reference.

5. Admittedly, the appropriate Government has referred this Reference of 31 workers of Party no.1 bank for adjudicate by this Court. Admittedly, the appropriate Government has referred the reference on 14.10.2015. First party appeared in the case and has filed their written statement on 10.05.2019. Thereafter my Ld. Predecessor has framed issues on 31.07.2019. While framing the issues my Ld. Prdecessor has framed 7 issues. The first issue is in respect of jurisdiction of this Court. It appears that thereafter the second party has adduced evidence of Pandit Vispute at Exh.U-9 by virtue of affidavit of examination-in-chief on 5.10.2020. Since then the case is pending for cross-examination. Thereafter the first party has sought various adjournments on one and other grounds. Thereafter the first party has filed this application.
6. On perusal of written statement of first party it appears that, in first paragraph it is mentioned by the first party that, in statement of claim it is shown that, 15 workers are not residing within territorial jurisdiction of this Court, therefore, on this ground this Court is not having jurisdiction to try the case.
7. It appears from the record that, in statement of claim it is shown that, first 15 workmen are residing at Aurangabad and rest of the workmen are not resident of Aurangabad. It appears that,

the workman Rohan Mahajan, Datta Korade, Asaram Naherkar, Somnath Harka, Arun Khotkar, Shriram Tangade, Kondiram Pathade, Baban Dabhade, Umesh Gondikar, Shaikh Toufique Sk.Rafik, Balasaheb Jawale, Balasaheb Kale are residing at Jalna. On this ground first party's contention is that this Court is not having jurisdiction to try the Reference. However, it appears that all the workers i.e. second party have jointly issued demand notice u/s.2K of Industrial Disputes Act, 1947. Thereafter they approached to the Regional Labour Commissioner Central, Pune. The Regional Labour Commissioner, Pune have after the conciliation proceeding has forwarded failure report to the appropriate Government. Later on the appropriate Government has referred the Reference to this Court. Admittedly, the appropriate Government is Central Government, therefore, the appropriate Government was having power to refer the dispute either to this Court or to Jalna Court, because some of the workers are residing within territorial jurisdiction of this Court and some of the workers are residing within territorial jurisdiction of Jalna Court. Admittedly, the Head Office of First party situated at Aurangabad and therefore, considering this fact the appropriate Govt.has referred the dispute to this Court. Considering this fact, certainly this court is having jurisdiction to decide the reference. Moreover, if at all the first party party was aggrieved with the order of appropriate Government by which the Reference was forwarded to this Court, then in that case it was necessary for them to challenge the said order before Competent Authority. However, the first party have not done so. The first party has kept mum for a period of 7 years and lateron they have filed this

application. So far as the case laws cited by the parties are concerned, Ld.counsel for the first party has placed his reliance on the judgment 1) V.G. Jagdishan Vs. Indofost Industries Ltd., reported in 2022 (II) CLR 833 and 2) District Sports Council Vs. Zilla Krida Sankul Karmchari Sanghatana reported in 2022 III CLR 370. It appears that, facts of both these case laws are not identical with case in hand. Hence, with due respect to the proposition laid down in the case law, I hold that same is not applicable to the present case. Considering facts and circumstances of the case I came to the conclusion that, this Court is having jurisdiction to entertain and try the present reference. Hence, the application is liable to be rejected. Hence, I pass following order :-

Order

1) Application Exh.C-42 stands rejected.

Place: Aurangabad

Date: 17/01/2023

[S. S. Sahasrabudhe]

Presiding Officer

Labour Court-II, Aurangabad.

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same, word to word, as per the original judgment/order.

Name of Steno : G M Patil
Court : 2nd Labour Court,A'bad.
Order transcribed on : 17.01.2023
Order checked & signed on : 17.01.2023
GMP/-