

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6180 OF 2025

Maharashtra State Co-operative Marketing
Federation Ltd .. Petitioner

Versus

Ramesh Tukaram Pote & Anr. .. Respondents

.....

- Mr. Jitendra Gautam, Advocate for Petitioner
- Ms. P.J. Gavhane, AGP for Respondent No. 2 - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 25, 2025

P. C.:

1. Heard Mr. Gautam, learned Advocate for Petitioner and Ms. Gavhane, learned AGP for Respondent No. 2 - State.

2. On 11.06.2025 after hearing learned Advocate for Petitioner and learned AGP appearing for State, following order was passed:-

"1. Heard Mr. Dubey, learned Advocate for Petitioner and Ms. Gavhane, learned AGP for Respondent No. 2 - State.

2. Present Writ Petition impugns the judgment & order dated 25.11.2024 passed by the Industrial Court, Thane (appended at page Nos. 26-35, Exh. "B" of Petition) in Revision Application (ULP) No. 28/2023.

*3. Being aggrieved with the judgment & order dated 21.03.2023 passed by Labour Court, Mahad in Complaint (ULP) No. 4/2012, Petitioner filed Revision Application under Section 44 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (for short, "**MRTU & PULP Act**") on the ground that when the Complaint was decided by the Labour Court, Petitioner was not heard and it was decided ex parte.*

4. On perusal of the judgment & order passed by Labour Court, Mahad, it is prima facie seen that Petitioner being Respondent therein did not appear before the Labour Court. What has been stated in the said judgment & order is that Respondent had earlier appeared in the proceedings and raised objection about maintainability of Complaint on the

ground that private Respondent was not a workman which was decided in Revision in favour of the private Respondent. However thereafter when the Complaint was heard by the Labour Court, it is stated that Petitioner did not appear.

5. Mr. Dubewould submit that the judgment & order passed by Labour Court has been decided *exparte* only after considering the evidence of private Respondent. He would draw my attention to the impugned order passed in Revision which in paragraph No.4 while narrating the facts categorically records that matter was proceeded without presence of Petitioner by the Labour Court. He would submit that they did not have any notice of hearing of the said proceedings. He would submit that Petitioner being an arm of the State Government would not refrain from attending the proceedings if it had knowledge about the same. He would point out to the fact that in both the twin orders under challenge in the present Petition, insofar as effecting service on Petitioner for hearing of the original Complaint is concerned both the orders are silent. He would submit that the judgment & order of the Labour Court primarily proceeds on the basis that Petitioner had appeared in the proceedings in the first instance when maintainability of the proceedings was determined. In that view of the matter, I am inclined to accept the submissions made by Mr. Dubey that for hearing of Complaint No. 4/2012 subsequent to the decision in the Revision proceedings pertaining to maintainability of the proceedings, Petitioner ought to have been put to notice. That apart on merits of the matter, Mr. Dubey has drawn my attention to the fact that written statement was filed by Petitioner before the Labour Court in the Complaint which has been completely disregarded while determining the original Complaint.

6. Arguable case is made out by Mr. Dubey for issuance of notice to private Respondent and immediate determination of the present Writ Petition considering the above timeline in the present case. Hence, issue notice to Respondent No. 1 returnable on 25.06.2025. Humdast permitted.

7. Copy of the Petition and this order is directed to be served on Respondent No. 1 by learned Advocate for Petitioner through any private permissible mode of service and appropriate affidavit of service is directed to be filed showing tangible proof of Respondent No. 1 having received the same. If the Respondent No. 1 is served and does not appear on the next adjourned date, this Court shall proceed with determining the Petition on merits in accordance with law.

8. Learned AGP waives service on behalf of State.

9. List the matter on the **Supplementary Board** on **25th June, 2025**. In the meanwhile, there shall be ad-interim relief in terms of prayer clause (c)."

3. It is stated that directions contained paragraph No.7 of the above order have been complied with. Affidavit of service dated 24.06.2025 is filed which is taken on record. It is seen that

Respondent No. 1 has been duly served. Despite that today none appears for Respondent No. 1.

4. Considering the issue recorded in the aforesaid order, there is no reason as to why the Petition needs to be kept pending any further. As opined by this Court in paragraph Nos. 4 and 5 of the aforesaid order, it is admitted position that pursuant to first remand made by Industrial Court when the Labour Court was seized with hearing of Complaint (ULP) filed by Respondent No. 1, admittedly Court noted that Petitioner was not present but since the Petitioner was represented and had appeared in the first round, without considering or without according opportunity to Petitioner the judgment & order came to be passed. That judgment & order was challenged by Petitioner in Revision before the Industrial Court but despite categorically holding the aforesaid fact to be true and the fact that Petitioner did not appear before the Labour Court, matter was proceeded *ex parte*, *inter alia* in Revision and the Industrial Court returned a finding in paragraph No. 16 of the impugned judgment & order which *prima facie* is contrary to its own observations. Industrial Court goes on to hold that in spite of repeated opportunities, Petitioner did not appear before the Labour Court. Said finding is on the face of record an incorrect finding. While narrating the facts and making specific observations, Industrial Court itself held that Petitioner did not appear before Labour Court

and matter was proceeded without presence of Petitioner despite which the Industrial Court concluded that Petitioner was given repeated opportunities which is completely incorrect and therefore deserves to be interfered with.

5. In view of the aforesaid observations and findings, impugned judgment & order passed in Revision Application (ULP) No. 28 of 2023 by Industrial Court stands quashed and set aside. Consequently the order dated 21.03.2023 passed in Complaint (ULP) No. 4/2012 by Labour Court is also quashed and set aside.

6. It is directed that Complaint (ULP) No. 4/2012 shall be heard by Labour Court, Mahad, District Raigad afresh after hearing both the parties and shall be decided strictly in accordance with law without being influenced by any of the observations and findings in the judgment and orders which have been set aside as also the present order.

7. Considering the aforesaid timeline, learned Labour Court is directed by this Court to complete the hearing of Complaint (ULP) No. 4/2012 as expeditiously as possible and in any event within a period of six months from today. Needless to state that both the parties shall be heard by the Labour Court before deciding the Complaint. All contentions and issues of the parties before the Labour Court are kept

open without this Court giving any imprimatur on the merits of the mater.

8. Writ Petition is allowed and disposed in the above terms.

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[MILIND N. JADHAV, J.]

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