

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

WRIT PETITION NO. 13943 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Meelan Topkar for the Petitioner.

Mr. Manoj Patil for the Respondent No.1.

CORAM : K. K. TATED, J.

DATED : 16/02/2017

PC.:

. Heard learned Counsel for the parties.

2 By this petition under Article 227 of Constitution of India, the Petitioner is challenging the Award dated 05.12.2014 passed by Labour Court-II, Maharashtra at Kolhapur in Reference (IDA) No. 155 of 2010 directing the Petitioner to reinstate the Respondent No.1 on his previous post with continuity of service with full back wages w.e.f. 18.08.2009 till his reinstatement.

3 The learned Counsel for the petitioner submits that as per the order dated 23.12.2015 passed by this Court, they deposited sum of Rs. 1,06,000/- in the Registry of this Court. He further submits that they already reinstated Respondent No.1 through Respondent No.2 in service. This itself shows that Respondent No.1 is in service at present.

4 The learned Counsel for the petitioner submits that the Labour Court failed to consider the fact that Respondent No.1 was working with the Petitioner through Respondent No.2 the Contractor. Hence, the Contractor issued the letter dated 18.08.2009 terminating his services. Therefore, there is no question of passing any order against the petitioner.

5 These facts are denied by learned Counsel for the Respondent No.1. The learned Counsel for the Respondent No.1 submits that even the Respondent No.1 in his cross-examination specifically stated that he was working with the petitioner since long. Not only that the petitioner used to pay provident fund contribution for Respondent No.1. Therefore, order passed by the Labour Court is not required any interference.

6 It is to be noted that though the petitioner placed on record the Agreement dated 17.04.2009 to show that Respondent No.1 was working with the petitioner through Respondent No.2 Contractor, just because the stamp paper of the said agreement was of dated 01.04.2009, the Labour Court in paragraph 16 of the impugned order stated that petitioner as well as Respondent No.2 placed on record false documents and failed to consider on its merits.

7 Considering this fact, I am of the opinion that petitioner has made out case for following order.

- a) Admit.
- b) Ad-interim relief granted by this Court by order dated 23.12.2015 to continue till the hearing and final disposal of present petition.
- c) Liberty granted to the Respondent No.1, if he so desire, to prefer appropriate application for withdrawal of amount deposited by the Petitioner and that application shall be decided on its own merits.
- d) The learned Counsel for the Respondent No.1 waives service.

(K.K.TATED, J.)