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C.A.No. 2417-2418 OF 2001

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ITEM No.101 (P.H.)

Court No. 11

SEC.XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No. 2417-2418/2001@@

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President, Karad Nagar Parishad & Anr.Appellants

VERSUS

Udaysingh B. Mohite & Ors. Respondent (s)

Date : 21/01/2003 This Petition was called on for judgment today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE P.VENKATARAMA REDDI

For Appellant (s) Mr. L.N. Rao, Sr. Adv.
Mr. M.D. Adkar, Adv.
Mr. Vishwajit Singh, Adv.

For Respondent (s) M/s. Ajay Majithia, S.K. Sinha and
Mr. Yash Pal Dhingra, Advs.

UPON hearing counsel, the Court made the following

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Mr. L.N. Rao, the learned senior counsel for the appellants resumed his arguments at 10.30 a.m. and concluded at 11.10 a.m. Then Mr. Ajay Majithia, the learned counsel for the respondents started and concluded at 11.45 a.m. The appeals are remitted back to the High Court.

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(Y.P. Dhamija) (Veera Verma)
Court Master Court Master

Signed order is placed on the file.

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admitted. In support of this contention, our attention was

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drawn to two decisions of this Court, one reported in Vividh@
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Kamgar Sabha Vs. Kalyani Steels Ltd. & Anr. (2001) 2 SCC@@
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381 and other in Cipla Ltd. Vs. Maharashtra General Kamgar@
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Union & Ors. (2001) 3 SCC 101.@@
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The counsel for the respondents, on the other hand, contended that this plea was not raised by the appellants before the High Court and the Industrial Court has taken a decision after having considered all the materials before it, and therefore, the question that the respondents are employees of the Council is rightly decided by the Labour Court and that there was no want of jurisdiction when appellant itself submitted to the jurisdiction and invited a decision on the point.

In the impugned judgment passed by the learned Single Judge of the Bombay High Court and the Division Bench, this question was not considered and there is also no material to show that the appellants herein had raised such question regarding the jurisdiction of the Industrial Court to decide the issue. It is true that in the counter affidavit filed before the Industrial Court appellants had raised a contention regarding jurisdiction and stated that the complaint was not maintainable against the appellants in general terms.

On merits, we see that the parties on either side produced several documents before Industrial Court and these

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documents were not considered by the High Court at all and when a serious question was agitated before the High Court, the matter should have been gone into in order to consider whether the finding recorded by the Tribunal can be said to be perverse or unreasonable. We are constrained to remit the matter to the High Court to re-hear the Writ Petition and dispose it on merits in accordance with law expeditiously. As the matter was also dealt with by the Division Bench in LPA, it is just and proper that the Writ Petition be heard by a Division Bench of the Bombay High Court and disposed of expeditiously. As we are remitting the matter to the High Court, the High Court may also consider whether the contention as to maintainability should be permitted to be raised and if so, the legal principle decided by this Court in the aforementioned cases would have bearing on this case.

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.....J.
(K.G. BALAKRISHNAN)@@
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NEW DELHI,
JANUARY 21, 2003

.....J.
(P.VENKATARAMA REDDI)