

(2012) 09 BOM CK 0125

In the Bombay High Court

Case No : Writ Petition No. 6614 of 2012

Haffkine BioPharmaceuticals Corporation Ltd.

APPELLANT

Vs

Shri Prakash Sakharam Mane, H2/ 105, Gurukrupa Housing
Society, Mhada Colony, Morwadi, Near SNDT School, Pimpri,
Pune411018

RESPONDENT

Date of Decision : 07-09-2012

Acts Referred:

Citation : (2012) 6 ALLMR 192 : (2013) 2 BomCR 412 : (2013) 136 FLR 190 :
(2012) 6 MhLj 959

Hon'ble Judges : Anoop V. Mohta, J

Bench : Single Bench

Advocate : N.R. Patankar with Mr. V.P. Sawant, for the Appellant; Jaydeep Deo,
for the Respondent

Judgement

Anoop V. Mohta, J.—Heard finally, by consent of the parties. The Petitioner has challenged impugned order dated 7 July 2012 passed by the Industrial Court, Pune, thereby rejected the Revision Application without assigning any reason. By this Revision, the Petitioner has challenged order dated 27 June 2012 passed by the Labour Court, Pune, whereby it is held that "Enquiry conducted against complainant is legal, fair and proper, however, finding of the enquiry officer is perverse". "There was no sufficient evidence before him to prove misconduct." Except referring to the judgments against such interlocutory order of the Labour Court, the Industrial Court, has not given any reasons on merits of the matter.

2. The order passed by the Labour Court, treated as "preliminary issue". The order/action based upon the enquiry report and/or the conduct of enquiry always goes to the root of the matter. The findings so given, as recorded above if challenged, the Revisional Court ought to have considered the same in accordance with law. This is for the simple reason that though against this preliminary issue, if law provides and permits, the parties to challenge the same through the Revision, to say that in view of the judgment The Cooper

Engineering Limited Vs. Shri P.P. Mundhe, and other related Judgments that no reasons are required to be given by the Revisional Court on merits of the matter, in my view, is impermissible.

3. The Supreme Court judgment, so referred and relied by the Learned Counsel appearing for the Respondent and even the Judgments so relied by the learned Judge, nowhere provide and/or decide that the Revisional Court should not give any reasons, the moment a preliminary issue, as decided and/or even such similar matters to avoid further delay; and also on the ground that the parties are entitled to lead evidence in support of their case in the Court. In my view, both the things are on different footings. Just cannot be overlooked.

4. The Revisional Court, considering the scope and purpose itself, bound to provide the reasons while deciding even such preliminary issue. The basic requirement of passing reasons, itself means the reasons on merits. It is not always necessary that the reasons should be long and lengthy, but the basic reasons in view of the specific grounds to raise and the submission so made, just cannot be overlooked while deciding even the Revision Application and basically when the Labour Court has decided that the finding of the Enquiry Officer is perverse, though held that the inquiry conducted against the Labourer is legal, fair and proper, there was no sufficient evidence to prove this misconduct, just cannot be maintained without assigning reasons in such fashion, if such order is challenged. The reasons on merits are must, which in the present case, are missing in toto. Therefore, taking overall view of the matter, I am inclined to set aside the order dated 7 July 2012 passed by the Industrial Court.

5. The learned Industrial Court to dispose of the Revision Application within 6 weeks from today, by giving an opportunity to both the parties. The Petition is accordingly allowed. No costs.