

Gujarat High Court

Sarpanch vs Tulsidas on 27 September, 2010

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Gujarat High Court Case Information System

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SCA/10243/2010 4/ 4 JUDGMENT

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CIVIL APPLICATION No. 10243 of 2010

For
Approval and Signature:
HONOURABLE
MR.JUSTICE M.R. SHAH

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1

Whether

Reporters of Local Papers may be allowed to see the judgment ?

2

To

be referred to the Reporter or not ?

3

Whether

their Lordships wish to see the fair copy of the judgment ?

4

Whether

this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5

Whether

it is to be circulated to the civil judge ?

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SARPANCH
- Petitioner

Versus

TULSIDAS
MAGANBHAI BAVAJI - Respondent

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Appearance :
MS
HANSA V PATEL for the Petitioner.
MR YOGEN PANDYA for the
Respondent.

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CORAM

:

HONOURABLE

MR.JUSTICE M.R. SHAH

Date
: 27/09/2010

ORAL
JUDGMENT

1. Rule.

Mr.Yogen Pandya, learned advocate waives service of notice of Rule on behalf of the respondent.

2. In the facts and circumstances of the case and with the consent of the learned advocates appearing on behalf of the respective parties, the present petition is taken up for final hearing today.

3. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner - Sarpanch of Khadadhar Gram Panchayat, has prayed for an appropriate writ, order and/or direction, quashing and setting aside the impugned judgement and award dated 29/01/2010 passed by Labour Court, Amreli in Reference Case No.66 of 2004, by which, Labour Court, Amreli has allowed the said Reference by directing the petitioner to reinstate the respondent on his original post with full backwages for the intervening period.

4. At the outset, it is required to be noted that this Court has issued Notice only for the purpose of considering the backwages.

5. Mr.Yogen Pandya, learned advocate appearing on behalf of the respondent, under the instruction received from the respondent, has left it to the Court with respect to amount of backwages is concerned. He has further submitted that though respondent-workman has been reinstated in the month of January,2010 till date, he has not been paid any amount of wages except Rs.1200/- each for the month of March,2010 and April,2010. He has further submitted that at least the respondent is entitled to get the minimum wages from the date of reinstatement till date. So far as backwages which may be awarded by this Court is concerned, as Recovery Application is pending, the same shall be decided by the concerned Labour Court.

6. Having heard Ms.Patel, learned advocate appearing on behalf of the petitioner and Mr.Yogen Pandya, learned advocate appearing on behalf of the respondent and considering the facts and circumstances of the case and impugned judgement and award passed by the Labour Court and considering the financial position of the Panchayat, it appears to the Court that if the respondent is awarded 25% backwages from the date of termination till reinstatement, it will meet the ends of justice.

7. Learned advocates appearing on behalf of the respective parties do not invite any further reasoned order while awarding 25% backwages and modifying the impugned judgement and award passed by the Labour Court to the aforesaid extent.

8. In view of the above broad consensus between the learned advocates appearing on behalf of the respective parties, the petition succeeds in part. The impugned judgement and award dated 29/01/2010 passed by Labour Court, Amreli in Reference Case No.66 of 2004 is hereby modified to the extent of awarding backwages and instead of full backwages, the petitioner is directed to pay

25% of the backwages to the respondent for the intervening period i.e. from the date of termination till date of reinstatement. As the respondent is already reinstated in service in the month of January, 2010, the petitioner is bound to pay minimum wages to the respondent on the post in question and the petitioner is directed to pay the same from the date of reinstatement till date within a period of six weeks from today without fail. So far as 25% backwages as per modified judgement and award passed by the Labour Court is concerned, it is reported that recovery application is already pending with the Labour Court and, therefore, amount of backwages due and payable to the respondent shall be decided by the concerned Labour Court in accordance with law and on merits.

With this, the present petition is disposed of. Rule is made absolute to the aforesaid extent. No costs.

Direct service is permitted.

[M.R.SHAH,J] *dipti Top