

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

6. WRIT PETITION NO.3393 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Husen Kasim Shaikh	.. Respondent

7. WRIT PETITION NO.3399 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Vinod Ramchandra Wadane	.. Respondent

8. WRIT PETITION NO.3400 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Sanganna Nimbargi	.. Respondent

9. WRIT PETITION NO.5240 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Vinayak Basavraj Bagalkote	.. Respondent

10. WRIT PETITION NO.5241 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Surjitsingh Panchamsingh Raghuwanshi	.. Respondent

11. WRIT PETITION NO.5242 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Mahadeo Chandrakant Shrisat	.. Respondent

12. WRIT PETITION NO.5243 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Tanaji Vasudeo Bhosale	.. Respondent

13. WRIT PETITION NO.5244 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Mohan Ashok Kadadas	.. Respondent

14. WRIT PETITION NO.5245 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Vijaykumar Govind Karle	.. Respondent

15. WRIT PETITION NO.5248 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Surendra Chilkaholu	.. Respondent

16. WRIT PETITION NO.6003 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Altaf Makbul Mujavar	.. Respondent

17. WRIT PETITION NO.6009 OF 2021

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Shankar Ambanna Hasarbhav	.. Respondent

18. WRIT PETITION (ST) NO.11110 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Prashant Mallikarjun Undale .. Respondent

19. WRIT PETITION NO. 13285 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Satish Babulal Sharma .. Respondent

20. WRIT PETITION NO. 13287 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Shivaji Babasaheb More .. Respondent

21. WRIT PETITION NO.14192 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Malikarjun Mahadeo Pujari .. Respondent

22. WRIT PETITION NO.14197 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Chandrakant Dnyandev Deshmukh .. Respondent

23. WRIT PETITION NO.16048 OF 2022

Smruti Organics Company Ltd. .. Petitioner
Versus
Davalji Lakshman Ingole .. Respondent

24. WRIT PETITION NO.2164 OF 2023

Smruti Organics Company Ltd. .. Petitioner
Versus
Nagnath Waghmode .. Respondent

25. WRIT PETITION NO.2213 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Dattatray Nivrutti Bhog	.. Respondent

26. WRIT PETITION NO.4616 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Muratuji Mahamadsharif Maniyar	.. Respondent

27. WRIT PETITION NO.4619 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Suryakant Revansiddh Gutti	.. Respondent

28. WRIT PETITION NO.4622 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Mohan Audumbar Survase	.. Respondent

29. WRIT PETITION NO.4625 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Vijaykumar Naik	.. Respondent

30. WRIT PETITION NO.10956 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Ramesh Baburao Fulari	.. Respondent

31. WRIT PETITION NO.10958 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Dilip Shivaji Mane	.. Respondent

32. WRIT PETITION NO.10961 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Dhanesh Appasaheb Birajdar	.. Respondent

33. WRIT PETITION NO.10962 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Dayanand Ravindra Ughade	.. Respondent

34. WRIT PETITION NO.10964 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Devendra Kashinath Moge	.. Respondent

35. WRIT PETITION NO.10965 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Santosh Maruti Aanpat	.. Respondent

36. WRIT PETITION NO.10977 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Bashir Farid Pathan	.. Respondent

37. WRIT PETITION NO.10979 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Avinash Kashinath Sakhare	.. Respondent

38. WRIT PETITION NO.10982 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Balaji subhas Egave	.. Respondent

39. WRIT PETITION NO.10984 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Keshav Arjun Wagmare	.. Respondent

40. WRIT PETITION NO.10985 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Santosh Audumbar Survase	.. Respondent

41. WRIT PETITION NO.10989 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Nagnath Shankar Banshetti	.. Respondent

42. WRIT PETITION NO.10993 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Surykant Shivchallappa Bondge	.. Respondent

43. WRIT PETITION NO.10996 OF 2023

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Rajendra Madhukar Lomate	.. Respondent

44. WRIT PETITION NO.10999 OF 2023

Smruti Organics Company Ltd. .. Petitioner
Versus
Amarnath Hemant Aadaki .. Respondent

45. WRIT PETITION NO.11002 OF 2023

Smruti Organics Company Ltd. .. Petitioner
Versus
Dattaraya Mahadeo Jadhav .. Respondent

46. WRIT PETITION NO.14768 OF 2023

Smruti Organics Company Ltd. .. Petitioner
Versus
Aajinkya Madhukar Ingale .. Respondent

47. WRIT PETITION NO.7867 OF 2025

Smruti Organics Company Ltd. .. Petitioner
Versus
Bhijmashankar Vitthal Vhanmane .. Respondent

48. WRIT PETITION NO.7868 OF 2025

Smruti Organics Company Ltd. .. Petitioner
Versus
Suresh Ashok Survase .. Respondent

49. WRIT PETITION NO.7892 OF 2025

Smruti Organics Company Ltd. .. Petitioner
Versus
Satish Ramdas Reddy .. Respondent

50. WRIT PETITION NO.8449 OF 2025

Smruti Organics Company Ltd. .. Petitioner
Versus
Satish Laxmanrao Suryavanshi .. Respondent

51. WRIT PETITION (ST) NO.16136 OF 2025

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Dattu Birappa Ghodake	.. Respondent

52. WRIT PETITION (ST) NO.16140 OF 2025

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Suryakant Chandrakant Mashal	.. Respondent

53. WRIT PETITION (ST) NO. 16142 OF 2025

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Amit Anil Kulkarni	.. Respondent

54. WRIT PETITION (ST) NO.21069 OF 2025

Smruti Organics Company Ltd.	.. Petitioner
Versus	
Nitin Sitaram Waghchoure	.. Respondent

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- Mr. Kiran S. Bapat, Senior Advocate a/w Mr. Gaurav S. Gawande i/by M/s. Desai & Desai Associates, Advocates for Petitioner in all Petitions.
 - Mr. Kuldeep U. Nikam, Advocate for Respondent in all Petitions
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 02, 2025

P C.:

1. Heard Mr. Bapat, learned Senior Advocate appearing for Petitioners and Mr. Nikam, learned Advocate for Respondents.

2. At the outset, Mr. Bapat would submit that there are total 50 matters filed by Petitioner Company out of which Writ Petition (St) No. 11113/2022 has not been listed on board. Same is taken on board along with the 49 Petitions listed today. Mr. Nikam has instructions to appear on behalf of Respondents in all the matters.

3. Mr. Bapat would submit that for the sake of convenience present set of Petitions can be divided into following three groups depending upon the nature of the impugned order passed and applicable facts which are similar and identical for consideration of the matters in that group :

Group 1 : UNIT - I

NO.	WRIT PETITION NO.
1	16048 OF 2022
2	5244 of 2021
3	3393 OF 2021
4	4619 OF 2023
5	3400 OF 2021
6	6003 OF 2021
7	2164 OF 2021
8	4625 OF 2023
9	4616 OF 2023
10	5248 OF 2021
11	5240 OF 2021

Group 2 : UNIT - II

NO.	WRIT PETITION NO.
1	14297 OF 2022
2	4622 OF 2023
3	3399 OF 2021
4	5242 OF 2021
5	5245 OF 2021
6	2213 OF 2023
7	5243 OF 2021
8	6009 OF 2021
9	5241 OF 2021
10	14192 OF 2022
11	8449 OF 2025
12	ST NO.16136 OF 2025
13	ST NO.16142 OF 2025
14	7892 OF 2025
15	7868 OF 2025
16	7867 OF 2025

Group 3 : UNIT - III (Contract Employees)

NO.	WRIT PETITION NO.
1	10956 OF 2023
2	10958 OF 2023
3	10961 OF 2023

4	11110 OF 2022
5	10964 OF 2023
6	10965 OF 2023
7	10977 OF 2023
8	11100 OF 2022
9	13285 OF 2022
10	10979 OF 2023
11	10982 OF 2023
12	14768 OF 2023
13	10984 OF 2023
14	10989 OF 2023
15	10985 OF 2023
16	10993 OF 2023
17	10996 OF 2023
18	10999 OF 2023
19	10962 OF 2023
20	13287 OF 2022
21	11002 OF 2023
22	ST NO.16140 OF 2025
23	ST NO. 21069 OF 2025

4. He would submit that 11 Writ Petitions pertain to workmen who were placed in Unit I. The employees of Unit No. I enmasse resorted to strike along with employees placed in Unit II w.e.f. 13.08.2014 to

15.11.2014. The said strike continued for a period of 93 days after which it was withdrawn and it was undertaken by the workmen that they will not resort to any strike again. He would submit that thereafter on 18.03.2015 Union representing the workmen of Unit II gave a strike notice once again. However those workmen placed in Unit No. I did not give any notice for strike. As a consequence of the strike notice dated 18.03.2015 workmen placed in Unit No. II stopped work and the workmen in Unit I on their own also stopped attending duty w.e.f. 13.04.2015 to support the strike call. He would submit that at no point of time the workmen placed in Unit I showed any willingness to come back and rejoin their duty. In this context, he would submit that workmen placed in Unit I were given show-cause-notice dated 28.07.2015 which was duly received by each one of them. He would draw my attention to one such show-cause-notice appended at Exh. 'B' of Writ Petition No. 16048/2022. For the sake of convenience, said Writ Petition is taken as lead Petition in respect of 11 Writ Petitions grouped under Unit I.

4.1. He would submit that despite issuance of show-cause-notices the workmen refrained from joining their duties. He would submit that 11 workmen out of total 20 workmen placed in Unit I derelicted and therefore were proceeded with after issuance of show-cause-notice. However rest of the workmen of Unit I returned back to work. He

would submit that 11 Writ Petitions in Unit I are the Writ Petitions of these 11 workmen who never turned up and joined their duty. He would submit that thereafter between April 2015 and February 2017, there was a complete hiatus and absolutely no communication was received from the workmen regarding their joining duty and only for the first time on 15.02.2017, the workmen sent a demand notice claiming that they were terminated from service illegally on 19.04.2015. He would submit that Petitioner Company on receipt of the said demand notice responded and replied back to the concerned workmen by reply dated 28.02.2017 stating that the services of the Respondents - workmen were never terminated by the Company and Respondents - workmen had remained absent on their own free will. In this background, he would submit that appropriate Authority referred the dispute for adjudication under Section 2A of the Industrial Disputes Act, 1947 (for short, "**the said Act**"). He would submit that Respondents - workmen filed their Statement of claim and prayed for reinstatement with continuity of service and full backwages before the Labour Court. He would submit that the claim of Respondents - workmen was opposed by Petitioner Company by categorically reiterating that there was no industrial dispute in existence. He would submit that both the parties led evidence before the Labour Court upon which the impugned Judgment & Award dated 17.03.2020 came

to be passed. Identical Awards are passed in respect of the 11 workmen. The said Awards are the subject matter of challenge in the present group of Writ Petitions. Challenge in respect of 11 Writ Petitions pertaining to Unit I is identical according to him.

5. Similarly he would submit that insofar as 16 Writ Petitions in Group 2 pertain to Unit II are concerned, they pertain to workmen working in Unit II. He would submit that Unit II had a total number of 40 workmen working in the said Unit. Same set of facts, *inter alia*, pertaining to going on strike applies to the workers of Unit II also. He would submit that the defence taken by Respondents - workmen in Unit II is also identical. He would submit that 24 out of 40 workmen returned back to service and joined their duty whereas 16 Respondents - workmen in the Writ Petitions grouped under Unit II did not return back and raised an industrial dispute after two years. He would submit that reference raised by Respondents - workmen in respect of their alleged termination by Company was decided by identical impugned Awards dated 17.03.2020, one of which is appended at Exh. 'I' page No. 71 of Writ Petition No. 14297/2022. For the sake of convenience, said Writ Petition is taken as lead Petition in respect of 16 Writ Petitions grouped under Unit II.

6. Next he would submit that the remaining 23 Writ Petitions in Unit III pertain to contract employees. He would submit that same set

of facts apply to these contract employees also with respect to the strike notice given by the Union. He would submit that after their dispute for adjudication under Section 2A was referred to the Labour Court, adjudication was done and impugned Award dated 30.12.2016 came to be passed. He would submit that identical impugned Awards are the subject matter of challenge in the 23 Writ Petitions of 23 contract employees.

6.1. He would submit that insofar as the workmen placed under Unit I and Unit II are concerned, their reference was partly allowed by the learned Labour Court and Petitioner Company was directed to reinstate them back with continuity of service and 50% backwages. Insofar as the contract employees are concerned, he would submit that identical order of reinstatement has been passed with a direction to given them 20% backwages.

7. Being aggrieved with the impugned separate Judgment & Award passed in respect of 50 workmen placed in Unit I, Unit II and contract workers, Mr. Bapat has made the following points for consideration:-

- (i) That at no point of time the Respondents - workmen until the notice which was sent by them in February 2017 raised any dispute in respect of their case of alleged termination by the Company. He would submit that

Respondents - workmen failed to place on record any iota of evidence to show that they ever wanted to joint duty and they were prevented by the Company from joining their duty;

- (ii) That it was an admitted fact that there was no termination of service by Petitioner Company and at no point of time any order of termination was passed by the Company and therefore this cannot be a case of dispute having been adjudicated under Section 2A of the said Act;
- (iii) That if the Company had indeed taken steps for termination of the workmen, the Company would have to follow the due process of law. Hence, allegation of workmen that they were terminated from service is not true. The Company had never terminated the said workmen rather the workmen had abandoned services of the Company and never turned back for work for more than two years;
- (iv) Since the workmen did not work with the Company for more than 2 years, they are not entitled to any order of backwages and more specifically so in the case of Petitioner Company where it is involved with manufacture

of pharmaceutical drugs and medicines and any strike notice given by the workmen was detrimental to the working of the Petitioner Company as also the Society at large;

- (v) That Petitioner Company suffered a humongous loss of more than Rs. 7 Crore in view of the strike having lasted for more than 93 days and most importantly 50 workmen not having turned to work even thereafter for a period of more than 2 years upto 2017 after which they had issued the illegal demand notice on the Company. Hence, he would submit that direction for payment of 50% backwages is completely unjustified in the present facts and circumstances. That some of the workmen according to the documentary evidence placed on record *prima facie* show that they were gainfully employed and therefore not entitled to any relief of backwages at all whose data is placed on record in the Writ Petitions;
- (vi) That the notice of strike itself was illegal. That in the facts and circumstances of the present case, it cannot be adjudicated to be a case of illegal termination of workers when strike notice was given by the Union and the strike was in operation at the then time;

- (vii) That during cross-examination of workmen before the Labour Court, it was admitted by the workmen themselves that they were working with the Company on the said date i.e. 04.04.2015 and therefore there cannot be said to be any termination order passed or any termination done by the Company;
- (viii) That it is an admitted fact that there was no termination of service of any of the workmen when admittedly at no point of time there was any order of termination passed and therefore there can never be a dispute to be adjudicated upon under the said Act;
- (ix) That the Company had never terminated the services of workmen and the workmen had themselves abandoned their job and never returned back to join duty. Hence it was not incumbent upon the Company to conduct any enquiry or take any action against the workmen;
- (x) That once the Labour Court held that Respondents - workmen were on an illegal strike w.e.f. 18.03.2015 in the impugned Award then in the same breath the same Labour Court cannot hold that the workmen were terminated from service. He would submit that there is no

question of the workmen having been terminated on 04.04.2015 or otherwise once there is a categorical finding returned by the Labour Court that the workmen were on illegal strike w.e.f. 18.03.2015. He would submit that once the Labour Court came to the conclusion that the strike which was in effect from 18.03.2015 was itself illegal, there is no question of the workmen being terminated immediately thereafter since it was an admitted position that the workmen were on strike at that point of time;

- (xi) That insofar as the 23 contract employees are concerned, they have admitted before the Labour Court that they have not filed any evidence to show that they were employed by the Company as it was their primary duty to establish the said fact that they were direct employees of the Company. He would submit that the said contract employees had admitted in their deposition that they were working with the Company from 17.11.2014, the allegation of contract employees that their services were terminated from 15.04.2015 cannot withstand. He would submit that Petitioner Company has placed on record substantial documentary evidence to prove that the 23

contract employees were in fact employees of the contractor of the Company and therefore it is an admitted fact that there was no termination whatsoever of their services by the Petitioner Company. Similarly he would submit that even in the case of the 23 contract employees, there cannot be a case of any dispute being adjudicated under Section 2A of the said Act since at no point of time, the Company had passed any order of termination in respect of the said contract employees.

8. On the aforesaid grounds, Mr. Bapat would persuade the Court to consider the case of Petitioner to challenge the Awards passed by the Labour Court and decide the Petitions accordingly.

9. Mr. Nikam, learned Advocate for Respondents would persuade the Court to allow him to take appropriate instructions on the above submissions made by Mr. Bapat considering the humongous number of Respondents in the matter as he represents and espouses their cause. At his request matter is adjourned to 30.07.2025 for reply.

10. Issue notice to Respondents returnable on 30.07.2025.

11. Mr. Nikam waives service of notice on behalf of Respondents in all 50 Writ Petitions.

12. It is clarified that no coercive steps shall be taken against the Petitioner Company with respect to the orders / Awards impugned in the aforesaid 50 Petitions by any of the Respondents until the Petitions are heard and decided.

13. Stand over to **30th July, 2025** under the caption "**Part-Heard**".

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA
MOHAN
AMBERKAR

Digitally signed
by RAVINDRA
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