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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5562 OF 2014

Rashtriya Mula Pravara Vij Kamgar Sangh, Ahmednagar
VERSUS
Mula Pravara Electricity Co-operative Society Ltd. And Others

WITH
WRIT PETITION NO.5495 OF 2014

Babasaheb Bhimraj Lasure And Others
VERSUS
Mula Pravara Electricity Co-operative Society Ltd. And Others

WITH
WRIT PETITION NO.5496 OF 2014

Eknath Jagannath Hulule And Others
VERSUS
Mula Pravara Electricity Co-operative Society Ltd. And Others

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Mr.Barde Parag Vijay, Advocate for Petitioners.

Shri Hon Vinayak D., Senior Advocate a/w Shri Umakant Wagh, Advocate
for Respondent No.1.

Shri Godsay Satish M. for R/2.

None appears for Respondent No.3, though served.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd September, 2015

Per Court:

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I have heard the learned Advocates for the litigating sides in

these petitions at length.

2 A common order delivered by the Industrial Court dated 05.03.2014 below Exhibit U/2 in Complaint (ULP) Nos.1 to 41/2013, 44 to 70/2013, 72 to 81/2013, 83/2013, 101/2013, 106/2013, 107/2013, 111/2013, 120/2013, below Exhibit U/9 in Complaint (ULP) Nos.2 to 41/2013, 45 to 55/2013, 57 to 60/2013, 62 to 70/2013, below Exhibit U/15 in Complaint (ULP) No.1/2013, below Exhibit U/14 in Complaint (ULP) No.83/2013, below Exhibit U/10 in Complaint (ULP) Nos.72/2013, 106/2013, 107/2013, 111/2013, below Exhibit U/11 in Complaint (ULP) Nos.44/2013, 61/2013 and below Exhibit U/8 in Complaint (ULP) No.73 to 81/2013, is impugned in these petitions. By virtue of the impugned order, the applications for interim reliefs filed by these Petitioners under Section 30(2) of the MRTU & PULP Act, 1971 have been rejected.

3 A short issue has been raised for determination. It is an admitted position that all these Petitioners, who are original Complainants in the above stated complaints, had applied for Voluntary Retirement Scheme (VRS), which was accepted by Respondent No.1. The Petitioners were the employees of Respondent No.1. It is also undisputed that the payment under the VRS has not been made by Respondent No.1 barring a meager part payment.

4 Respondent No.1 has taken a stand before the Industrial Court that it would make the payment under the VRS and clear off all the legal dues of the Petitioners/ Workmen as soon as the funds are available. The same statement is made in the affidavit in reply filed by Respondent No.1 in these petitions.

5 The grievance of the Petitioners is that the Industrial Court came to the conclusion that though the Petitioners are likely to suffer on account of non payment of the VRS amounts and legal dues, Respondent No.1/ Employer can be directed at the final stage to make the said payments in the event it is noticed that the same are due.

6 Shri Barde, learned Advocate appearing for the Petitioners, therefore, makes a grievance about this conclusion of the Industrial Court on the ground that when the Employer itself has admitted that the VRS was floated, the Petitioners have accepted the VRS, they have been relieved pursuant to the VRS, the Employer is willing to pay the VRS amounts and the said amounts are to be paid as soon as the funds are available, then the Industrial Court could not have rejected the applications for interim reliefs.

7 Shri V.D.Hon, learned Senior Advocate appearing on behalf of Respondent No.1/ Employer, has supported the impugned order. Nevertheless, he submits that the affidavit in reply has been filed by Respondent No.1/ Employer. Insofar as the payments of legal dues are concerned, Respondent No.1 is bound to make the payments under the VRS as soon as the funds are available. Respondent No.1 does not have intention of depriving the Petitioners/ Workmen of what is legally payable to them. The circumstances which compelled the Employer in not paying the legal dues to the Petitioners/ Workmen are also set out in the affidavit in reply.

8 Shri Godsay, learned Advocate appearing on behalf of Respondent No.2 submits that Respondent No.3, which is the regulatory body, has directed Respondent No.2 to deposit an amount of Rs.45 crore. The said amount has been deposited with Respondent No.3/ MERC under protest and the order directing Respondent No.2 to deposit the said amount was assailed before the Honourable Supreme Court by filing a SLP.

9 Shri Godsay further submits that in the recent past, the Honourable Supreme Court has dismissed the said SLP filed by Respondent No.2 and as such, the amount of Rs.45 Crore deposited by Respondent No.2 with Respondent No.3 are available to Respondent

No.1/ Employer. He further adds that as per the orders of Respondent No.3, Respondent No.2 is obliged to deposit Rs.1 Crore with Respondent No.3/ MERC in relation to Respondent No.1/ Employer.

10 In the light of the above, I find that these subsequent events, which are indicative of the fact that Respondent No.1/ Employer would be receiving it's dues in the near future, were not before the Industrial Court when the impugned order was passed on 05.03.2014.

11 It is undisputed that the Petitioners are employees who have lost their employment on the ground of VRS and have also not received their legal dues under the scheme and other heads. This has led to a painful situation. Respondent No.1/ Employer, in the light of the admitted facts, is duty bound to ensure that the payments to the Petitioners are made at the earliest on receiving the funds. In this backdrop, it would be appropriate to modify the impugned order dated 05.03.2014 since at the relevant time, the Industrial Court was informed that Respondent No.1/ Employer did not have any money so as to clear off the legal dues of the Petitioners/ Workmen.

12 Considering the subsequent events, ends of justice would be met by ensuring that Respondent No.1/ Employer is directed to deposit

the legal dues of the Petitioners as are payable under the VRS, before the Industrial Court as soon as the funds are received by Respondent No.1. Keeping this object in view, the impugned order could be suitably modified so as to ensure that the Petitioners are not driven to the stage of starvation.

13 In the light of the above and considering the subsequent events as have been recorded above, the impugned order dated 05.03.2014 stands modified by directing Respondent No.1 to deposit the legal dues payable to the Petitioners/ Workmen before the Industrial Court during the pendency of the complaints.

14 Respondent No.1/ Employer is, therefore, directed to submit it's bank account numbers and the names of Banks and branches with which Respondent No.1 has it's accounts, before the Industrial Court within a period of four weeks from today.

15 The Petitioners would be at liberty to seek copies of the bank account statements of Respondent No.1/ Employer by moving appropriate application before the Industrial Court so as to ensure that the funds which are likely to be received by Respondent No.1 in near future are not utilized for any other purpose besides clearing off the legal dues of the

Petitioners/ Workmen on priority basis.

16 Respondent No.1/ Employer shall, therefore, commence depositing of amounts before the Industrial Court as soon as it receives the funds in the light of the admitted position as recorded herein above.

17 Needless to state, the complaints preferred by the Petitioners/ Workmen, which have been expedited by the Industrial Court, shall be decided as expeditiously as possible and preferably on or before 30.01.2016.

18 While keeping all the contentions of the litigating sides open, the Industrial Court shall bear in mind the admitted position with regard to the VRS granted by Respondent No.1/ Employer to the Petitioners/ Workmen as well as the issue of imposing simple interest on the amounts to be paid to the Petitioners/ Workmen for delayed payment.

19 With the above directions, these petitions are partly allowed.

(RAVINDRA V. GHUGE, J.)