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

WRIT PETITION NO. 10487 OF 2014
WITH
CIVIL APPLICATION NO.6241 OF 2015
IN
WP/10487/2014

MUNICIPAL COUNCIL, OSMANABAD THROUGH CHIEF OFFICER
SHASHIMOHAN G. NANDA
VERSUS
THE ASSISTANT COMMISSIONER OF LABOUR, LATUR AND ANOTHER

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Advocate for Petitioners : Mr.Naiknavare Ramesh V.

AGP for Respondents: Mrs.Y.M.Kshirsagar for R/1.

Advocate for Respondents : Mr.A V Patil for R/2.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd July, 2015

Per Court:

1 On 02.12.2014, I had passed the following order:-

- “1. The petitioner has challenged three certificates, all dated 20.8.2014, issued under Section 33-C(1) of the Industrial Disputes Act, 1947 ("the said Act"). The amount directed to be recovered from the petitioner is Rs.3,58,502/-, Rs. 2,72,164/- and Rs. 22,37,766/- in the said certificates. The total amount is roughly Rs.28,50,000/-.
2. The petitioner claims that the said certificates have been issued without hearing the petitioner; However, the petitioner was intimated by the respondent, vide letter dated 19.7.2014 and the copy of the claim

made by the respondent was supplied to the petitioner. The said communication is an intimation that the order under Section 33-C(1) of the said Act has already been passed.

3. *The petitioner is unable to submit as to when was the notice for the first time issued in the said proceedings and how many opportunities did the petitioner take for participating in the said proceedings. These dates and events are necessary for deciding the grievance of the petitioner.*
4. *As such issue notice before admission to the respondent No.2 only, returnable on 19.1.2015. Learned Advocate Shri Gaddime appears and waives service for respondent No.2.*
5. *Leave is granted to the petitioner to place on record the details as regards the hearing under Section 33-C(1) proceedings before the Assistant Labour Commissioner. Necessary amendment be carried out within two weeks from today. After the amendment is carried out, the copy shall be supplied to the learned Advocate for the respondent*
6. *S.O. to 19.1.2015, subject to the condition that the petitioner shall deposit an amount of Rs.12,50,000/- in this Court on/or before 9.1.2015.”*

2 Shri Patil, learned Advocate appearing on behalf of Respondent No.2 Union, submits that in similar circumstances this Court by an order dated 26.08.2013 passed in Writ Petition No.110/2013 filed by the same Petitioner Municipal Council, has dismissed the Writ Petition.

3 Having heard the learned Advocates appearing for the respective sides, it is evident that the issue is not about entitlement, but pertains to proper calculation to be done so as to ensure that the amount

due is paid to the Employees. Care needs to be taken that an excess amount is not paid and at the same time, the employees should not be deprived of what legally is payable to them.

4 Shri Patil, learned Advocate for Respondent No.2 Union, which is espousing the cause of the Claimants/ Employees, submits that he does not desire to obtain an excess amount than what is legally due and permissible under law. He, however, prays that the issue of interest be kept open for the Authorities to decide.

5 Shri Naiknavare, learned Advocate appearing for the Petitioner/ Municipal Council, submits that the Petitioner shall diligently participate in the proceedings before Respondent No.1 Authority on remand and shall abide by the dates of hearing as may be posted by the concerned Authority. He further assures that all assistance and cooperation shall be extended by the Petitioner, inasmuch as, necessary documents shall be placed before the appropriate authority for enabling it to arrive at a proper conclusion.

6 In the light of the above, this Writ Petition is partly allowed under the following directions:-

(a) The impugned order issuing three recovery certificates under

Section 33(C)(1) of the Industrial Disputes Act, 1947 dated 20.08.2014 are quashed and set aside.

- (b) The amount of Rs.12,50,000/- (Rupees Twelve Lacs Fifty Thousand) deposited in this Court by the Petitioner on 07.01.2015 by Demand Draft No.440058 shall stand remitted to Respondent No.1 Authority.
- (c) The Registry of this Court is, accordingly, directed to deposit the said amount with Respondent No.1 (Assistant Commissioner of Labour, Latur) as expeditiously as possible and preferably within a period of THREE WEEKS from today.
- (d) The learned AGP shall furnish the Registry of this Court the bank account number of Respondent No.1/ Assistant Commissioner of Labour, Latur within ONE WEEK from today.
- (e) Respondent No.2 Union is at liberty to withdraw 50% of the said amount deposited along with accrued interest from Respondent No.1 after properly identifying the beneficiaries and by providing necessary/ tangible identity proof and residence proof to the satisfaction of Respondent No.1.
- (f) Respondent No.1/ Assistant Commissioner of Labour, Latur shall ensure that half of the amount which is allowed to be withdrawn shall actually be paid to the beneficiary employees.

- (g) The litigating sides shall appear before Respondent No.1/ Assistant Commissioner of Labour, Latur on 14.08.2015 at 11:00 am and thereafter, shall abide by the dates of hearing as may be posted by the concerned Authority.
- (h) Respondent No.1 shall endeavour to decide these proceedings as expeditiously as possible and preferably on or before 31.10.2015.
- (i) After the amounts are properly calculated, the Petitioner shall deposit the due amount before Respondent No.1 thereafter, to be paid to the beneficiary employees.

7 The pending Civil Application does not survive and hence, is disposed of.

(RAVINDRA V. GHUGE, J.)