

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11741 OF 2015

1. Maheboob Khadir Shaikh,
Age-35 years, Occu-Service,
R/o Labour Colony, Latur,
Tq. And Dist. Latur,
2. Gangabai Kamarji Kamble,
Age-37 years, Occu-Service,
R/o Buddha Nagar, Latur,
Tq and Dist. Latur,
3. Balaji S/o Nivrutti Dumane
(died) through his LR's,
Bharatbai w/o Balaji Dumane,
Age-35 years, Occu-Service,
R/o Labour Colony, Latur,
Tq. And Dist. Latur,
4. Bhagwat S/o Nagnath Chakre,
Age-32 years, Occu-Service,
R/o Indira Nagar, Latur,
Tq and Dist. Latur,
5. Baban S/o Govind Kamble,
Age-36 years, Occu-Service,
R/o Harangul (kh.),
Tq. And Dist.Latur,
6. Jaishree w/o Bhagwant Shendge,
Age-38 years, Occu-Service,
R/o Motinagar, Latur,
Tq. And Dist. Latur,
7. Atik Fakirmiya Shaikh,
Age-39 years, Occu-Service,
R/o Labour Colony, Latur,
Tq. And Dist. Latur,

8. Prabhakar s/o Kashinath Gaikwad,
Age-42 years, Occu-Service,
R/o.Malwati Road, Latur,
Tq. And Dist.Latur,

9. Rajendra S/o Virappa Ghodke,
Age-40 years, Occu-Service,
R/o Nath Nagar, Latur,
Tq. And Dist.Latur,

10. Sojarbai w/o Kishan Adsule,
Age-42 years, Occu-Service,
R/o Indira Nagar, Latur,
Tq. And Dist.Latur

PETITIONERS

VERSUS

Municipal Corporation, Latur,
District Latur,
Through its Commissioner

RESPONDENT

Mr.S.P.Urgunde, Advocate for the petitioners.
Mr.A.V.Hon, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/12/2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. On 05/12/2015, while issuing notice to the respondent, this Court had recorded the submissions of the petitioners as under :-

"1 The Petitioners are parties to Complaint (ULP)

No.23/2009 in their capacity as Complainants before the Industrial Court at Latur. The reliefs prayed for in the said complaint have been denied and the Industrial Court by the impugned judgment dated 04.07.2014 has dismissed the complaint.

2 *Shri Urgunde, learned Advocate for the Petitioners, submits that some of the Complainants were before this Court in Writ Petition No.6506/2014 which has been partly allowed by the judgment of this Court dated 31.08.2015 and the complaint has been remitted back to the Industrial Court for a fresh adjudication.*

3 *He submits that the present Petitioners were along with those Petitioners in Complaint (ULP) No.23/2009. However, they had no knowledge that the other group was approaching this Court. He, therefore, submits that the judgment of this Court dated 31.08.2015 covers this petition.*

4 *Issue notice to the Respondent, returnable on 21.12.2015. Humdast allowed.*

5 *It is made clear to the Respondent that considering the view taken by this Court in it's judgment dated 31.08.2015 in Writ Petition No.6509/2014 concerning the same Complaint (ULP) No.23/2009, this petition would be disposed of after hearing the parties on the returnable date."*

3. Mr.Urgunde, learned Advocate submits that the present petitioners were co-complainants alongwith the petitioners in WP No.6506/2014. Since the said complaint has been remitted to the Industrial Court with certain directions set out in the judgment of this Court dated 31/08/2015, same directions can be passed in this matter so as to enable these petitioners to participate in the said complaint.

4. He further submits that in the serial order of the petitioners, they were complainant Nos.20, 19, 18, 14, 27, 29, 11, 22, 23 and 31 in Complaint (ULP) NO.23/2009, which has been remitted for a fresh hearing.

5. Mr.A.V.Hon, learned Advocate for the respondent/Municipal Corporation strenuously opposes this petition. His contention is that the petition has been delayedly filed. The earlier petitioners/complainants have approached this Court in 2014 and that petition was decided by the judgment of this Court on 31/08/2015. The law should not assist a sleeping litigant. The Complaint (ULP) No.23/2009 is to be decided on or before 29/02/2016. In these circumstances, these petitioners ought not to be allowed to stake their claims in the said complaint.

6. I have considered the submissions of the learned Advocates as recorded hereinabove.

7. The reasons for which the impugned judgment dated 04/07/2014 delivered by the Industrial Court had been set aside, cannot be ignored. Having set aside the impugned judgment and having remitted the complaint, these petitioners who are identically placed with their co-complainants before the Industrial Court, deserve to be given a similar chance. In the event, the evidence has already been recorded on the part of the complainants, the Industrial Court can permit these petitioners to file a *purshis* for adopting their evidence. In the event, the recording of evidence is in progress, these petitioners can join the co-complainants in the said process,

8. In the light of the above, this petition is allowed. As the impugned judgment has already been set aside, these petitioners shall join their co-complainants before the Industrial Court. If recording of evidence has not been completed on the part of the complainants, these petitioners shall adduce evidence without seeking any adjournments. In the event, the recording of evidence is completed, these petitioners can then adopt the evidence recorded by

the co-complainants by filing an individual *purshis* to that extent. Needless to state, this order shall apply to these petitioners alone as like the petitioners who are covered by the order of this Court dated 31/08/2015.

9. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)