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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2875/2016

WITH

WRIT PETITION NO.3004/2016

Nanded Zillha Dekhreh Sahakari
Sanstha Marya, Nanded & another.

...Petitioners...

Versus

Shaikh Murtuza Shaikh Rahim & others.

...Respondents...

.....

Shri G.D. Kale, Advocate for the petitioners.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 15.03.2016

ORDER :

1] I have heard the learned Advocate for the petitioners for quite some time.

2] In both these petitions, the judgments dated 22.5.2013 delivered by the Controlling Authority under the Payment of Gratuity Act, 1972, have been challenged.

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3] Shri Kale, learned Advocate for the petitioners, has strenuously submitted that the petitioners do not have a penny to pay the gratuity to the employees though they have every intention to pay the gratuity. The payment of gratuity would be done only if the petitioners get funds.

4] I am not impressed by the submissions of the learned Advocate for the petitioners. It is purely a lip service. More over, it is a trite law that the statutory remedy of appeal to the appellate authority for challenging the judgment of the Controlling Authority needs to be exhausted. It is equally settled that any attempt by an employer to bypass the statutory remedy of appeal only because the law mandates depositing of the entire gratuity amount with the Controlling Authority, cannot be entertained.

5] As such, the petitioners will have to deposit the entire amount before the Controlling Authority prior to moving their appeal. I had called upon the learned Advocate for the petitioners to deposit the entire gratuity amount as assessed by the Controlling Authority in this Court if these petitions are to be entertained

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without laying down a precedent. He has expressed the inability of the petitioners to deposit the said amount in this Court.

6] In the light of the above, both these petitions are dismissed. Needless to state, if the petitioners are in a position to deposit the gratuity amount before the Controlling Authority, they would be at liberty to file appeals in these matters alongwith an application for condonation of delay.

(RAVINDRA V. GHUGE, J.)