

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3132 OF 1997

- 1 Yoseph Keru Pandit,
Deceased through his L.Rs.
- 1-a Tareja Yoseph Pandit,
Age : 36 Yrs.
- 1-b Maria Yoseph Pandit,
Age : 19 yrs,
- 1-c Savita Yoseph Pandit,
Age : 17 yrs,
- 1-d Kavita Yoseph Pandit,
Age : 15 yrs,
- 1-e Sarita Yoseph Pandit,
Age : 13 yrs,
- 1-f Suresh Yoseph Pandit,
Age : 11 yrs,
- 1-g Prashant Yoseph Pandit.
Age : 9 yrs.
(Petitioner No.1-c to 1-g Minors.
Through Petitioner No.1-a)
- 2 Ranganath Bandu Gaikwad.
- 3 Dada Bhika Pawar.
- 4 Sakharam Shrawan Pawar.
- 5 Alex Kacharu Bhosale.
- 6 Sahebrao Rama Bagul.
- 7 Vasant Narayan Pawar.
- 8 Popat Ranganath Jadhav.
- 9 Balu Ranganath Jadhav.
- 10 Janardan Subha Nikam.

- 11 Vasant Sambha Gaikwad.
- 12 Vinayak Trimbak Bhaladand.
- 13 Asaram Mhasu Take.
- 14 Jagannath Bhika Mahankale.
- 15 Karbhari Ananda Timale.
- 16 Bhausahab Dagadu Vasale.
- 17 Davit Yosef Borde.
- 18 Pawlas Vishwanath Jadhav.
- 19 Balu John Tribhuwan.
- 20 Venunath Ananda Khare.
- 21 Dhondiram Sagaji Borde.
- 22 Abhimanyu Changdeo Bagule.
- 23 Rama Uma Jadhav.
- 24 Nana Ramchandra Tribhuwan.
- 25 Rewaji Trimbak Bhaladand.
- 26 Magan Kisan Ganraj.
- 27 Chandrabhan Shankar Tupe.
Deceased through his L.Rs.
- 27-a Smt. Ratnamala Chandrabhan Tupe,
Age : 42 years,
- 27-b Ashok Chandrabhan Tupe,
Age : 29 years,
- 27-c Bharat Chandrabhan Tupe,
Age : 26 years,

All R/o Haregaon. Tq. Shrirampur,
Dist. Ahmednagar.
- 28 Bandu Pandu Wagh.
- 29 Sahebrao Ananda Ghuge.

- 30 Parsharam Bala Take.
- 31 Thomas Balwant Kadam.
- 32 Rayaji Bhawani Magar.
- 33 Bhaskar Bhikaji Ahire.
- 34 Mogal Shankar Pathare.
- 35 Vitthal Ananda Bagul.
- 36 Gulab Bhimraj Lokhande.
- 37 Bhaskar Kisan Pawar.
- 38 Markas Radhu Kolse.
- 39 Sudam Ganpat Ubale.
- 40 Shankar Ganpat Ubale,
Deceased through his L.Rs.
- 40-a Rahibai Shankar Ubale,
Age : Major.
- 40-b Santosh Shankar Ubale,
Age : Major.
- Both R/o Haregaon. Tq. Shrirampur,
Dist. Ahmednagar.
- 41 Rangnath Gawaji Tazad.
- 42 Mahadu Laxman Satdive.
- 43 Jagannath Dhondiba Shinde.
- 44 Ramesh Eknath Gaikwad.
- 45 David Paulas Bansode.
- 46 Kashinath Kadu Pandit.
- 47 Sopan Nana Bagul.
- 48 Vasant Ramu Gore.
- 49 Ahmed Chand Pathan.

- 50 Sahebrao Damu Gore.
- 51 Simon Yosef Borde.
- 52 Ashok Sonyabapu Somose.
- 53 Shamrao Laxman Gaikwad.
- 54 Raosaheb Vinayak Pagare.
- 55 Vidyadhar David Ghorpade.
- 56 Laxman Fakira Jadhav.
- 57 Dattu Shankar Pandit.
Died, Registration of CAST No.16816/02
(R.C. No.693/04) for L.Rs. has been refused vide
order dtd. 21/06/2004.
- 58 Ashok Maruti Gaike.
- 59 Sumant Vasant Salve.
- 60 Prakash Sakharam Lohakane.
- 61 Dadarao Shankarrao Khandagale,
Deceased through L.Rs.
- 61-a Smt. Indubai Dadarao Khandagale,
Age : 28 yrs,
- 61-b Ku. Lata Dadarao Khandagale,
Age : 12 yrs,
- 61-c Sagar s/o Dadarao Khandagale,
Age : 9 yrs,
- 61-d Sajan s/o Dadarao Khandagale,
Age : 7 yrs,
- 61-e Pramod Dadarao Khandagale,
Age : 4 yrs,
- 61-f Mayuri d/o Dadarao Khandagale,
Age : 1 yrs,

Petitioners Nos. 61-b to 61-f - Minors,
U/g of Petitioner 61-a.

All R/o Phule Nagar, Harsool,
Tq. & Dist. Aurangabad.

- 62 Karbhari Ranganath Jadhav.
- 63 Asaram Ananda Bagul.
- 64 Keru Bhika Garud.
- 65 Janardhan Bandu Bansode.
- 66 Popat Shahadu Sature,
Deceased through L.Rs.
- 66-a Shobha Popat Sature,
Age : 35 yrs,
- 66-b Parwatabai Sahadu Sature,
Age : 70 yrs,
- 66-c Kalabai Sahadu Sature,
Age : 50 yrs,
- 66-d Bharat Popat Sature,
Age : 12 yrs,
- 66-e Karan Popat Sature,
Age : 8 yrs,

All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

- 67 Kashinath Bhikaji Bagul.
- 68 Alex Eknath Gaikwad.
- 69 Ramchandra Bhika Bagul.
- 70 Ashok Premchand Jadhav.
- 71 Shamu Laxman Deshmukh.
- 72 Bhaiyya Habib Deshmukh.
- 73 Vasant Manohar Salve.
- 74 Yosef Ananda Hiwale.

All R/o Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

..Petitioners

Versus

- 1 V. B. Pimpale.
Office Manager,
Belapur Sugar & Allied
Industries, Tal. Shrirampur,
Dist. Ahmednagar.
 - 2 G. P. Pol.
Gen. Secretary,
Sakhar Kamgar Sabha.
Shrirampur, Dist. Ahmednagar.
 - 3 N. L. Kalokhe,
Resident Manager,
Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
 - 4 Avinash Apate,
General Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
 - 5 T. G. Cholke,
Asstt. Commissioner of Labour,
Ahmednagar.
 - 6 B. B. Patil,
Director, Belapur Sugar & Allied,
Industries Ltd. Shrirampur,
Dist. Ahmednagar.
 - 7 Chandrabhaga S.S.K. Ltd.
Pandharpur. Dist. Solapur.
- ..Respondents

**WITH
WRIT PETITION NO. 3135 OF 1997**

- 1 Rambha Kashinath Khare,
Deceased L.Rs.
 - 1-a Smt. Parvatibai W/o. Rambha Khare,
Age : 55 years,
 - 1-b Balu S/o Rambha Khare,
Age : 35 years,
- Both R/o. Haregaon, Tal. Shrirampur,

Dist. Ahmednagar.

- 2 Namdeo Laxman Dive.
- 3 Benjamin Dagadu Khandagale.
- 4 Kashinath Genu Lihinar.
- 5 Bhanudas Bhiwa Pagare.
- 6 Karbhari Rangnath Bagul.
- 7 Babu Trimbak Chabuswar.
- 8 Karbhari Nana Tribhuwan.
- 9 Ashok Tatya Hiwale.
- 10 Laxman Jana Garud.
- 11 Fakira Balu Hawaskar.
- 12 Ratan Shrawan Sarode.
- 13 Satyabhan Bhimaji Pawar.
- 14 Bardas Sawala Gaikwad.
- 15 Raosaheb Eknath Gaikwad.
- 16 Shiwaji Vitthal Adhav.
- 17 Sakhahari Chimaji Ramgude.
- 18 Nagesh Kadu Pandit.
- 19 Ashok Eknath Gaikwad.
- 20 Kashinath Bandu Wagh.
- 21 Vishwanath Shahadu Avahad.
- 22 Alowan Punjaji Shirsath.
- 23 Ratan Pira Salve.
- 24 Vushwanath Kisan Surudkar.
- 25 Pandit Tanha Kharat.

- 26 Ana Sukaji Nikam,
Deceased through L.Rs.
- 26-a Smt. Sulochana w/o Ananda Nikam,
Age : 45 years,
- 26-b Sunil Ananda Nikam,
Age : 24 years,
- 26-c Sanjay Ananda Nikam,
Age : 22 years,
- 26-d Manoj Ananda Nikam,
Age : 10 years,
U/g. Of petitioner No.26-a Sulochana,

All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
- 27 Narayan Makaji Jadhav.
- 28 Madhukar Fakira Bansode.
- 29 Laxman Narayan Sathe.
- 30 Dhondiram Chima Phulare.
- 31 Maikal Sakharam Bansode.
- 32 Tanha Namdeo Bagul.
- 33 Ramdas Hari Adik.
- 34 Benjamin Kashinath Lokhande.
- 35 Dagadu Ibrahim Sayyad.
- 36 Jaganath Hari Loldge.
- 37 Tukaram Bhikaji Raut.
- 38 Radhakisan Nanasaheb Bhaladand.
- 39 Ramchandra Jagannath Nikam.
- 40 Mohammadin Iman Shaikh.
- 41 Shiwaji Laxman Rokade.
- 42 Sahebrao Madhav Ghode.

- 43 Suresh Bhimraj Shinde.
- 44 Chadu Gawaji Jadhav.
- 45 Bhaskar Ramaji Shak.
- 46 Dagadu Kisan Gaikwad.
- 47 Bhawram Tukaram Suryawanshi.
- 48 Yashwant Sambha Borude.
- 49 Dadu Pandharinath Mtsagar.
- 50 Daniyal David Ghorpade.
- 51 Poplas Namdeo Yewale.
- 52 Sona Sayanaji Wagh.
- 53 Bhanudas Pandit.
- 54 Shivram Ananda Khare.
- 55 Rahul Suba Nikam.
- 56 Ramesh Tabaji Gaikwad.
- 57 Raghu Parbhat Bagul.
- 58 Raybhan Madhav Sature.
- 59 Bhagwan Kacharu Abhore.
- 60 Daniyal Sajan Gaikwad.
- 61 Bhaskar Ratan Kharat,
Deceased through L.Rs.
- 61-a Smt. Rahibai Bhaskar Kharat,
Age : 45 years,
- 61-b Balu Bhaskar Kharat,
Age : 25 years,
- 61-c Milind Bhaskar Kharat,
Age : 20 years,
- 61-d Shobha Bhaskar Kharat,

Age : 18 years,

All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

62 Baban Baburao Bodhak.

63 Popat Kondiram Narwade.

64 Dhondiba Genu Navgire,
Deceased through L.Rs.

64-a Shashikala Dhondiba Navgire,
Age : 45 years,

64-b Vijay Dhondiba Navgire,
Age : 25 years,

64-c Rajendra Dhondiba Navgire,
Age : 22 years,

64-d Ujwala Dhondiba Navgire,
Age : 20 years,

64-e Jagdish Dhondiba Navgire,
Age : 12 years,
Petitioner No.64-e Minor,
u/g of his mother
i.e. Shashikala Dhondiba Navgire,

All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

65 Kazina Shankar Dehade.

66 Eknath Kacharu Dange.

All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

..Petitioners

Versus

1 V. B. Pimpale.
Office Manager,
Belapur Sugar & Allied
Industries, Tal. Shrirampur,
Dist. Ahmednagar.

2 G. B. Pol.
Gen. Secretary,

Sakhar Kamgar Sabha.
Shrirampur, Dist. Ahmednagar.

- 3 N. L. Kalokhe,
Resident Manager,
Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
- 4 Avinash Apate,
General Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
- 5 T. G. Cholke,
Asstt. Commissioner of Labour,
Ahmednagar.
- 6 B. B. Patil,
Director, Belapur Sugar & Allied,
Industries Ltd. Shrirampur,
Dist. Ahmednagar.
- 7 Chandrabhaga S.S.K. Ltd.
Pandharpur. Dist. Solapur. ..Respondents

**WITH
WRIT PETITION NO. 3136 OF 1997**

- 1 Raosaheb Mohaniraj Thorat.
 - 2 Bhausahab Pandharinath Naik.
 - 3 Venunath Asaram Khot.
 - 4 Gorakh Dhondiba Naik.
 - 5 Balasaheb Raibhan Asane.
 - 6 Prakash Yosef Shelke.
- All R/o Haregaon, Tq. Shrirampur,
Dist. Ahmednagar. ..Petitioners

Versus

- 1 V. B. Pimpale.
Office Manager,
Belapur Sugar & Allied
Industries, Tal. Shrirampur,

Dist. Ahmednagar.

- 2 G. B. Pol.
Gen. Secretary,
Sakhar Kamgar Sabha.
Shrirampur, Dist. Ahmednagar.
 - 3 N. L. Kalokhe,
Resident Manager,
Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
 - 4 Avinash Apate,
General Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
 - 5 T. G. Cholke,
Asstt. Commissioner of Labour,
Ahmednagar.
 - 6 B. B. Patil,
Director, Belapur Sugar & Allied,
Industries Ltd. Shrirampur,
Dist. Ahmednagar.
 - 7 Chandrabhaga S.S.K. Ltd.
Pandharpur. Dist. Solapur.
- ..Respondents

**WITH
WRIT PETITION NO. 3138 OF 1997**

- 1 Vithal Abaji Somose,
- 2 Shiva Shravan Sarode,
Deceased through his L.Rs.
- 2-a Kausaliya Shiva Sarode,
Age : 45 yrs,
- 2-b Chandrakant Shiva Sarode,
Age : 27 yrs,
- 2-c Ravikant Shiva Sarode,
Age : 24 yrs,
- 3 Sonyabapu Dada Mulay.
- 4 Balkrushna Vithal Shinde.

- 5 Anwar Sahebkhani Pathan.
- 6 Balaji Mohaniraj Khandagale.
- 7 Vithal Dharma Mahale.
- 8 Babaji Vithal Gaware.
- 9 Ambadas Phakira Jadhav.
- 10 Sandu Tukaram Suryawanshi.
- 11 Shantwan Luis Gaikwad.
- 12 Sawla Laxman Dive.
- 13 Shamuwel Krushnaji Kurpe.
- 14 Sudam Shivram Gaikwad.
- 15 Punja Dagdu Salve,
Deceased through his L.Rs.
- 15-a Venubai Punja Salve,
Age : 60 yrs,
- 15-b Jagan Punja Salve,
Age : 30 yrs,
- 15-c Sidharth Punja Salve,
Age : 22 yrs,
- 16 Babu Dhondi Hiwale.
- 17 Mustafa Shabuddin Shaikh.
- 18 Petras Namdeo Yewale.
- 19 Pandu Ramchandra Bodhak.
- 20 Gorakh Laxman Tribhuwan,
Deceased through his L.Rs.
- 20-a Suman Gorakh Tribhuwan,
Age : 46 yrs,
- 20-b Sunita Gorakh Tribhuwan,
Age : 30 yrs,

- 20-c Sanjay Gorakh Tribhuwan,
Age : 27 yrs,
- 20-d Sangita Gorakh Tribhuwan,
Age : 23 yrs,
- 20-e Savita Gorakh Tribhuwan,
Age : 20 yrs,
- 21 Jagannath Ramchandra Bodhak.
- 22 Anna Pandu Bodhak.
- 23 Karbhari Bhagwanta Jadhav.
- 24 Ganga Hira Chol.
- 25 Samsan Saloman Parpattegar.
- 26 Vasant Hari Thorve.
- 27 Suryabhan Rewaji Yewale.
- 28 Vishwanath Soloba Bansode.
- 29 Gorakh Rajaram Shinde.
- 30 Popat Gawaji Barse.
- 31 Sahebrao Natha Bhalerao,
Deceased through his L.Rs.
- 31-a Smt. Vimalabai Sahebrao Bhalerao,
Age : 45 yrs,
- 31-b Raju Sahebrao Bhalerao,
Age : 25 yrs,
- 31-c Vijay Sahebrao Bhalerao,
Age : 21 yrs,
- 31-d Sanjay Sahebrao Bhalerao,
Age : 18 yrs,
- 31-e Dipak Sahebrao Bhalerao,
Age : 18 years.
- 32 Uttam Rama Bagul,
Deceased through his L.Rs.

- 32-a Pushpabai Uttam Bagul,
Age : 45 yrs,
- 32-b Dipak Uttam Bagul,
Age : 23 yrs,
- 32-c Atul Uttam Bagul,
Age : 21 yrs,
- 32-d Amol Uttam Bagul,
Age : 19 yrs,
- 32-e Pankaj Uttam Bagul,
Minor u/g of real mother.
- 33 Laxman Tanha Kharat.
- 34 Prabhakar Nagu Hivale,
Deceased through his L.Rs.
- 34-a Vimal Prabhakar Hivale,
Age : 40 yrs,
- 34-b Ravindra Prabhakar Hivale,
Age : 21 yrs,
- 34-c Rajendra Prabhakar Hivale,
Age : 19 yrs,
- 34-d Praveen Prabhakar Hivale,
Age : 18 yrs,
- 35 Yohan Fransis Hiwale.
- 36 Raosaheb Laxman Gaikwad.
- 37 Ganpat Dalaji Phunase.
- 38 Rohidas Mhalu Kshatriya.
- 39 Subhedar Haidar Shaikh.
- 40 Rafayal Dada Jadhav.
- 41 Karbhari Babu Jadhav.
- 42 Manohar Ahilaji Bhosale.
- 43 Laxman Waman Avad.

- 44 Karbhari Babu Gaikwad,
Deceased through his L.Rs.
- 44-a Ushabai Karbhari Gaikwad,
Age : 50 yrs,
- 44-b Padmakar Karbhari Gaikwad,
Age : 30 yrs,
- 44-c Sanjay Karbhari Gaikwad,
Age 27 yrs,
- All R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
- 45 Bansi Tulshiram Thorat.
- 46 Shamu Kashinath Kasabe,
Deceased through his L.Rs.
- 46-a Sundrabai Shamu Kasabe,
Age 45 yrs,
- 46-b Suresh Shamu Kasabe,
Age : 30 yrs,
- 46-c Sunil Shamu Kasabe,
Age : 25 yrs,
- 46-d Surekha Shamu Kasabe,
Age : 23 yrs,
- 46-e Anil Shamu Kasabe,
Age : 21 yrs,
- 47 Yohan Maruti Sonowale.
- 48 Biban Kamal Shaikh.
- 49 Madhukar Kisan Pol.
- 50 Yoseph Shankar Gadekar.
- 51 Murlidhar Gangaram Nikale.
- 52 Sayaji Bhaga Mohan.
- 53 Hari Shankar Tribhuwan.
- 54 Namdeo Kaharu Chavan.

- 55 Babu Nathaji Jagtap.
- 56 Gangadhar Shankar Salve.
- 57 Charlas Damodar Tribhuwan.
- 58 Balasaheb Vishnu Dalvi.
- 59 Sambha Sakharam Gaikwad.
- 60 Rambha Sakharam Pathare,
Deceased through his L.Rs.
- 60-a Sindhubai Rambha Pathare,
Age : 50 yrs,
- 60-b Alka Rambha Pathare,
Age : 15 yrs,
- 60-c Mangal d/o. Rambha Pathare,
Age : 12 yrs,
- 60-d Yashwant s/o Rambha Pathare,
Age : 14 yrs,
- 60-e Yogesh s/o. Rambha Pathare,
Age : 10 yrs,
Petitioners 60-b to 60-e : Minors, through
Guardian Petitioner No.60-a Sindhubai.
- 61 Bansi Radhu Kolse.
- 62 Bhika Narayan Shirsath.
- 63 Namdeo Harishchandra Gaikwad.
- 64 Kacharu Dhondiba Yewale,
Deceased through his L.Rs.
- 64-a Smt. Bhagubai Kacharu Yewale,
Age : 55 yrs, Occ Household,
R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

All Aged - Majors,
All R/o Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.

..Petitioners.

Versus

- 1 V. B. Pimpale.
Office Manager,
Belapur Sugar & Allied
Industries, Tal. Shrirampur,
Dist. Ahmednagar.
 - 2 G. B. Pol.
Gen. Secretary,
Sakhar Kamgar Sabha.
Shrirampur, Dist. Ahmednagar.
 - 3 N. L. Kalokhe,
Resident Manager,
Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
 - 4 Avinash Apate,
General Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
 - 5 T. G. Cholke,
Asstt. Commissioner of Labour,
Ahmednagar.
 - 6 B. B. Patil,
Director, Belapur Sugar & Allied,
Industries Ltd. Shrirampur,
Dist. Ahmednagar.
 - 7 Chandrabhaga Sahakari Sakhar
Karkhanda Ltd.
Pandharpur. Dist. Solapur.
- ..Respondents

**WITH
WRIT PETITION NO. 3483 OF 1997**

- 1 Belapur Sugar & Allied Industries Ltd.
Haregaon, Tq. Shrirampur,
Dist : Ahmednagar, through its Manager,
Vasantrao S/o Baburao Pimpale,
Age : 50 years, Occu. Service,
R/o. Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
- 2 Balasaheb s/o Bhimraj Patil,
Age : 51 years, Occu : Agriculturist,
Director, Belapur Sugar & Allied

Industries Ltd, At Haregaon,
Tq. Shrirampur, Dist. Ahmednagar.

..Petitioners

Versus

- 1 Vithal Abaji Somose.
- 2 Shiva Shravan Sarode.
- 3 Sonyabapu Dada Mulay
- 4 Balkrushana Vitthal Shinde.
- 5 Anwar Sahebkhani Pathan.
- 6 Balaji Mohaniraj Khandagale.
- 7 Vitthal Dharma Mahale.
- 8 Babaji Vitthal Gaware.
- 9 Ambadas Phakira Jadhav.
- 10 Sandu Tukaram Suryawanshi.
- 11 Shantwan Luis Gaikwad.
- 12 Sawla Laxman Dive.
- 13 Shamuwel Krushnaji Kurpe.
- 14 Sudam Shivram Gaikwad.
- 15 Punja Dagadu Salve.
- 16 Babu Dhondi Hiwale.
- 17 Mustafa Shabuddin Shaikh.
- 18 Petras Namdeo Yewale.
- 19 Pandu Ramchandra Bodhak.
- 20 Gorakh Laxman Tribhuwan.
- 21 Jagannath Ramchandra Bodhak.
- 22 Anna Pandu Bodhak.
- 23 Karbhari Bhagwanta Jadhav.

- 24 Ganga Hira Chol.
- 25 Samsan Saloman Parpattegar.
- 26 Vasant Hari Thorve.
- 27 Suryabhan Rewaji Yewale.
- 28 Vishwanath Golaba Bansode.
- 29 Gorakh Rajaram Shinde.
- 30 Popat Gewaji Barse.
- 31 Sahebrao Natha Bhalerao.
- 32 Uttam Rama Bagul.
- 33 Laxman Tanha Kharat.
- 34 Prabhakar Nagu Hiwale.
- 35 Yohan Fransis Hiwale.
- 36 Raosaheb Laxman Gaikwad.
- 37 Ganpat Dalaji Phunase.
- 38 Rahidas Mhalu Kshatriya.
- 39 Subhedar Haidar Shaikh.
- 40 Rafayal Dada Jadhav.
- 41 Karbhari Babu Jadhav.
- 42 Manohar Ahilaji Bhosale.
- 43 Laxman Waman Avad.
- 44 Karbhari Babu Gaikwad.
- 45 Bansi Tulshiram Thorat.
- 46 Shamu Kashinath Kasabe.
- 47 Yohan Maruti Sonowale,
- 48 Biban Kamal Shaikh.

- 49 Madhukar Kisan Pol.
- 50 Yoseph Shankar Gadekar.
- 51 Murlidhar Gangaram Nikale.
- 52 Sayaji Bhaga Mohan.
- 53 Hari Shankar Tribhuwan.
- 54 Namdeo Kaharu Chavan.
- 55 Babu Nathaji Jagatap.
- 56 Gangadhar Shankar Salve.
- 57 Charlas Damodhar Tribhuwan.
- 58 Balasaheb Vishnu Dalvi.
- 59 Sambha Sakharam Gaikwad.
- 60 Rambha Sakharam Pathare.
- 61 Bansi Radhu Kolse.
- 62 Bhika Narayan Shirsath.
- 63 Namdeo Harishchandra Gaikwad.
- 64 Kacharu Dhondiba Yewale.

All R/o - Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
- 65 Gabrial s/o Baburao Pol.
Joint Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
- 66 Nivrutti s/o Laxman Kalokhe,
Age : 55 years, Occu . Service,
Resident Manager,
R/o Haregaon, Tq. Shrirampur,
Dist. Ahmednagar.
(Dismissed as per Courts
Order dtd.17/06/2011)

- 67 Avinash Apate,
General Secretary,
Sakhar Kamgar Sabha,
Shrirampur, Dist. Ahmednagar.
- 68 T. G. Cholke,
Assist. Commissioner of Labour,
Ahmednagar.
- 69 Chandrabhaga Sahakari Sakhar
Karkhana Ltd. Pandharpur,
Tq. Pandharpur, Dist. Solapur. ..Respondents

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In Writ Petition No. 3132/1997, Writ Petition No. 3235/1997,
Writ Petition No. 3136/1997 & Writ Petition No. 3138/1997

Smt. Rashmi S. Kulkarni, Advocate holding for
Shri. S. D. Kulkarni, Advocate for Petitioners

In Writ Petition No.3136/1997
Shri. N.C. Garud, Advocate for Petitioners

Shri. R.N. Dhorde, Sr. Advocate i/b Shri R.L.Kute,
Advocate for Respondent Nos. 1, 3 & 6

Shri. B.B. Yenge, Advocate for Respondent No.4

Respondent Nos.2,5 & 7 - Served.

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In Writ Petition No. 3483 of 1997

Shri. R.N. Dhorde, Sr. Advocate
i/b Shri R.L.Kute, Advocate for the petitioners

Smt. R.S. Kulkarni, Advocate holding for
Shri. S.D. Kulkarni, Advocate for Respondent Nos. 1 & 3

Shri. B.B. Yenge, Advocate for Respondent No.67

Respondent Nos. 2,4 to 65, 68 & 69 - Served

Respondent No.66 - Dismissed.

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CORAM : RAVINDRA V. GHUGE, J.

Reserved on : March 14, 2016

Pronounced on : April 13, 2016

JUDGMENT:-

1. All these Writ Petitions have been admitted by this Court. The first four petitions have been filed by the employees and the last petition has been filed by the Sugar Factory at issue. For the sake of clarity, the worker petitioners would be referred to as the "Employees" and the employer would be referred to as the "Factory".

2. In all these petitions, the judgment impugned is dated 6.5.1997, delivered by the Industrial Court, Ahmednagar in Complaint (ULP) Nos. 2 of 1996 involving 64 employees, 3 of 1996 involving 6 employees, 4 of 1996 involving 74 employees and 5 of 1996 involving 66 employees.

3. These matters were argued by the learned Advocates for the respective sides on 14.1.2016, 15.1.2016, 28.1.2016, 4.2.2016, 9.2.2016, 11.2.2016, 16.2.2016, 18.2.2016, 24.2.2016, 25.2.2016, 1.3.2016 and 14.3.2016, when the matter was closed for judgment.

4. I have considered the extensive and lengthy submissions of the learned Advocates for the employees, the learned Sr. Advocate for the management and the learned Advocate for the Union.

5. Since all these petitions seek to challenge the judgment of the Industrial Court and have been filed under Article 227 of the Constitution of India, I deem it proper to refer to the scope of the jurisdiction of this Court in its supervisory and/or writ jurisdiction under Article 227 as has been very aptly defined by the Honourable Supreme Court in two judgments in the matters of Syed Yakoob Vs. K.S. Radhakrishnan and others [AIR 1964 SC 447] and Surya Dev Rai Vs. Ram Chander Rai [2003(6) SCC 682].

5. In the Syed Yakoob's Judgment (supra), the observations of the Honourable Apex Court in paragraph Nos.7 & 8 are as under:-

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or Tribunals; these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdictions. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which

is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Syed Ahmed Ishaque), Nagendra Nath Bora v. The Commissioner of Hills Division and Appeals, Assam ([1958] S.C.R. 1240.) and Kaushalya Devi v. Bachittar Singh.

8. *It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong*

in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of a the legal provision which is alleged to have been misconstrued or contravened.”

6. In the Surya Dev's judgment (supra), the observations of the Honourable Supreme Court in paragraph Nos 38(1) to (9) and 39 are as under:-

“38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:-

(1) *Amendment by Act No.46 of 1999 with effect from 01.07.2002 in Section 115 of Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.*

(2) *Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by the CPC Amendment Act No. 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.*

(3) *Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.*

(4) *Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When the subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.*

(5) *Be it a writ of certiorari or the exercise of supervisory*

jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied : (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (iii) a grave injustice or gross failure of justice has occasioned thereby.

(6) A patent error is an error which is self-evident, i.e., which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view the error cannot be called gross or patent.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) *The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a Court of Appeal and indulge in re-appreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.*

(9) *In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.*

39. *Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a straitjacket formula or rigid rules. Not less than often the High Court would be faced with dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of*

jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where 'a stitch in time would save nine'. At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the Judge."

8. The submissions of the learned Advocates for the employees can be summarized as follows:-

- (a) The management has closed down the factory on 31.12.1987.
- (b) The permanent, seasonal permanent and seasonal employees were granted compensation.
- (c) On 24.7.1991, the factory and the employees represented by their Union entered into an agreement dated 24.7.1991 to restart the factory.
- (d) It was agreed that all the employees, who were on the rolls of the factory as on 31.12.1987, were offered work as fresh employees.
- (e) The employees contend that it amounts to reinstatement of all the employees.

(f) On 13.4.1993, the factory was again closed down and the machinery was sold to another factory, by name, Chandrabhaga Cooperative Sugar Factory.

(g) Compensation is paid only to the permanent employees after the closure dated 13.4.1993.

(h) No compensation is paid to those who resigned or were seasonal permanent.

(i) All these petitioners / employees filed Complaint (ULP) Nos. 2 to 5 of 1996 before the Industrial Court at Ahmednagar and prayed for the declaration that the closure is illegal and sought reinstatement with full backwages and continuity in service.

(j) It was also prayed that the settlements dated 8.9.1995 and 23.3.1993 (actually dated 30.3.1993) signed by the Union with the factory be declared as illegal and null and void.

(k) The settlement dated 8.9.1995 is not a settlement as understood under Section 2(p) of the Industrial Disputes Act, 1947 ("ID Act") and therefore, cannot be termed to be a settlement applicable to any employee.

(l) Mr. G.B.Pol, who is signatory to the settlement was never a Member of the Union.

(m) Since the factory issued a notice dated 4.10.1995 to the employees to vacate the residential quarters made available to them by the factory, that the employees realised that the factory was permanently closed down.

(n) The employees are demanding their entire backwages and reinstatement in service or may be paid their entire backwages with closure compensation.

(o) The closure challenged in the complaints was not subject matter of the applications filed in 1995 by the employees under Section 33C(2) of the ID Act before the Labour Court.

(p) The stand taken by the factory that there was no closure and that the factory was closed down after two years since it was agreed to be operated only for two years, is a baseless contention.

(q) The award delivered by the Industrial Court, dated 19.10.1995, in Reference (IC) No. 3 of 1988 was based purely on the memorandum of settlement dated 8.9.1995.

(r) The notice dated 13.4.1993 closing down the factory amounts

to violation of Chapter V-B of the ID Act, 1947.

(s) Theory of resignation brought on record through the oral and documentary evidence by the management is a false theory since none of the employees have voluntarily resigned. They were made to sign on blank papers and such blank papers were used as resignation letters.

(t) The written statement of the factory does not raise the plea that the factory is a seasonal industry and that the employees had resigned from service.

(u) In 1987, when the closure was effected on 31.12.1987, the factory had sought permission from the Government for closure and the Government had granted the permission due to which all the employees received their closure compensation.

(v) The management / factory witness admitted in cross-examination that Section 25N was not complied with by the factory, while closing it down on 13.4.1993.

(w) Acceptance of resignation was not communicated to the employees.

(x) The Government had not declared the factory as a seasonal

industry / factory.

(y) All the employees, who were reinstated in 1991, were seasonal permanent employees.

(z) The employees have not suppressed any information from this Court and have divulged all the facts with regard to their employment and non-employment with the factory.

(aa) The award dated 19.10.1995, delivered by the Industrial Tribunal in Reference (IC) No.3 of 1998 is open to challenge in a Complaint (ULP) before the Industrial Court.

(ab) When the management has denied the closure, all the employees have to be reinstated in service or if the management desires to dispense with their services, it will have to seek permission under Chapter V-B of the ID Act.

(ac) The applicability of Section 2(oo)(bb) of the ID Act was not pleaded or canvassed before the Industrial Court by the factory and the same has been canvased for the first time in these petitions.

(ad) The applicability of Section 2(oo)(bb) is a mixed question of facts and law.

(ae) Out of the 210 employees before the Court, 64 employees have accepted retrenchment compensation of an amount of Rs.4,750/- on an average.

(af) There were about 1036 workers who were working in the factory, when it restarted in 1991 and when it was closed down after two years on 13.4.1993, as well.

(ag) Only 372 employees were granted compensation by the factory.

(ah) 64 employees amongst these petitioners who accepted compensation were permanent and the rest are seasonal permanent.

9. Smt. Kulkarni, learned Advocate for the employees submitted on 14.3.2016, when this matter was closed for judgment that in the event this Court dismisses the petitions filed by the employees, the judgment may be stayed for twelve weeks as the employees would prefer to approach the Honourable Apex Court.

10. Shri Dhorde, learned Sr. Advocate has strenuously criticized the impugned judgment in the petition filed by the factory and has opposed the petitions filed by the employees as under:-

(a) All the employees were retrenched after the first closure in

1987 by obtaining permission (deemed permission) from the appropriate Government.

(b) All the eligible employees were paid their retrenchment compensation and who executed receipts in acknowledgment thereof, which are placed on record.

(c) The union representing the workers withdrew Complaint (ULP) No. 275 of 1987 from the Industrial Court as the issue of closure of the factory was settled between the factory and the Union.

(d) The complainant Union in Complaint (ULP) No. 275 of 1987 was representing all the employees, which had challenged the closure dated 31.12.1987 made effective from 1.1.1988.

(e) By virtue of the settlement, the said Complaint (ULP) No.275 of 1987 was withdrawn by the Union on 19.12.1990, thereby rendering the closure legal and final.

(f) With the withdrawal of the said complaint, all the contentions challenging the closure were put to rest and stood withdrawn. All the employees, who are petitioners herein, were members of the said Union and accepted their closure compensation benefits.

(g) On 24.7.1991, the same Union, namely, Sakhar Kamgar Sabha

prevailed upon the factory, namely, Belapur Sugar and Allied Industries Limited to restart the factory on experimental basis, so as to render succour to the employees who were retrenched by the closure dated 31.12.1987.

(h) The agreement dated 24.7.1991 between the Union and the factory has been referred to in details by Shri Dhorde, thereby, indicating the extent of distress shown by the employees and the Union and their urge of restarting the factory.

(i) He has referred to the clause, by which, the petitioner factory agreed to start the crushing seasons only for rendering some succour to the employees and for a period of only one or two years.

(j) It was agreed by the Union that those workers who would be offered work, would be treated as being fresh hands / new employees, considering the fact that all of them were discharged by payment of closure compensation and had received their legal dues.

(k) The leave / holidays were also agreed upon by the factory and the Union.

(l) The parties also agreed that the employees would be initially paid 50 per cent of the wages and the remainder 50 per cent would be preserved by the factory in their names / accounts. (Learned

Advocates for the employees and the factory specifically confirm that after the factory stopped its crushing activity on 13.4.1993, the entire outstanding wages under Clause 11 of the settlement dated 24.7.1991 have been paid to all the employees).

(m) Shri G.B.Pol, whose identity is now being questioned by the employees, had signed on the said settlement on behalf of the Union and on the basis of which settlement these petitioners / employees were reemployed and had received their gratuity and other payments.

(n) The employees are challenging the competence of Shri G.B.Pol only for self serving purposes and that too after the said person has passed away.

(o) Shri G.B.Pol had received compensation on behalf of all the petitioners / employees earlier and had disbursed the said compensation to each of the employees. At that stage, not a single petitioner / employee challenged his competence or his identity.

(p) The tenure of the said settlement, dated 24.7.1991, was said to be for a period of five years only with an intention of rendering some stability over a period of five years in case the factory prospers in the first two years of the crushing season.

(q) The fate / destiny of the factory was sealed when it could operate its crushing season only for 175 days in the first crushing season from 19.11.1991 till 1.5.1992 and then for only 35 days in the second year from 24.12.1992 till 29.1.1993.

(r) On 30.3.1993, the settlement was signed between the factory and the Union with regard to the stopping of the crushing season.

(s) The employees have deliberately suppressed the three settlements dated 24.7.1991, 30.3.1993, and 8.9.1995 in the complaint only for self serving purposes.

(t) By the first settlement dated 24.7.1991, the factory was to operate its crushing season for only two years. The Union accepted this condition and the employees were reemployed.

(u) On 30.3.1993, the second settlement was signed for shutting down the crushing season of the factory. This settlement was signed with the representative of the Union.

(v) The third settlement was signed with the same Union on 8.9.1995, setting out the conditions under which the employees would be given their legal dues and Reference (IC) No.3 of 1988 was answered in terms of the said settlement.

(w) In the first paragraph of the third settlement, it was specifically mentioned that, all the employees have submitted their resignation letters, their dues as payable to them under Clause 11 of the first settlement were also being paid to them and those employees, who had occupied the quarters, would vacate the said quarters as a precondition for being eligible to receive the compensation package.

(x) None of these petitioners / employees have vacated their quarters and hence the notice dated 4.10.1995 was served upon them as they have violated the settlement.

(y) It was only after receiving the notice dated 4.10.1995 to vacate the quarters, that the petitioners / employees suddenly took a somersault and claimed that they have no knowledge about the third settlement and Shri G.B.Pol cannot represent them and that they are no longer associated with the said Union.

(z) Since the petitioners / employees were aware that they had tendered their resignation and the said fact or resignation was referred to in the first paragraph of the third settlement, that they have taken a stand in their respective complaints that they have not resigned and the factory / management has obtained their signatures on blank papers. Paragraph No.2 of the Complaints indicates this aspect.

(aa) Only 212 workmen / employees out of 1200 were before the Industrial Court and this Court. The rest about 1000 employees have complied with the terms and conditions of the third settlement and have accepted their benefits under the settlement.

(ab) The factory was restarted for operating two crushing seasons by the first settlement.

(ac) By virtue of the said settlement, the Union and the workers were made aware that the factory would run for only two crushing seasons.

(ad) It was, therefore, crystal clear that the tenure of the crushing season was only for two years.

(ae) Section 2(oo)(bb), therefore, squarely applies, considering the fact that the factory stopped its crushing season after operating the second season for only 35 days and therefore, the contractual period came to an end.

(af) As per Clause 3(1)(A & B) of the Standing Orders, applicable to the factory, a seasonal employee would become seasonal permanent only after working continuously in three crushing seasons.

(ag) Therefore, none of the employees in this petition can be said to be seasonal permanent or permanent employees and hence the provisions under Section 25N or 25O of the ID Act would not become applicable.

(ah) The receipt of having received compensation under the third settlement is on record.

(ai) The witness of the employees, namely, Laxman Tanha Kharat stated in his cross-examination that the employees had signed blank papers, though he volunteered to say that they were signed under pressure.

(aj) Said witness denied the fact of resignation by claiming that he signed on blank papers.

(ak) It is unbelievable that these employees who had joined employment with the factory as early as in 1965 and were senior workers, could have signed on blank papers when they were represented by a strong union, which was an approved and representative Union under the Bombay Industrial Relations Act ("BIR Act").

(al) Though he had denied that he had received any compensation, he identified and admitted his signature on the receipt

acknowledging payment of compensation under the third settlement.

(am) He also admitted the signatures of other employees on the receipts of payments.

(an) Though all the petitioners / employees had tendered their resignations pursuant to the third settlement and were not entitled for compensation, the factory still paid them the compensation on the condition that they would vacate the premises occupied by them.

(ao) In their applications under Section 33C(2) filed before the Labour Court seeking recovery of money from the factory, the fact of the settlements has been disclosed and in fact it is stated that the claim under Section 33C(2) is based on the settlements. Yet, these settlements have been suppressed in the Complaints before the Industrial Court, deliberately.

11. Shri Yenge, learned Advocate for the Union submits as under:-

(a) An affidavit-in-reply has been filed by the Union in Writ Petition No. 3138 of 1997.

(b) He refers to paragraph Nos.2, 4 and 5 of the affidavit and contends that the said Union was entered in the list of "APPROVED UNIONS" on 25.7.1950.

(c) As such, it has continued to represent the petitioners / employees for decades and has been instrumental in acquiring various benefits for the employees.

(d) It has strived for continuously improving the service conditions of the employees.

(e) It represented all the employees in Reference (IC) No.3 of 1988 and achieved better compensation package vide the settlement dated 8.9.1995 for these employees which led to the award dated 19.10.1995 in Reference (IC) No.3 of 1988.

(f) The Union has denied the contentions of the employees that it has not signed the three settlements referred above.

(g) The Union was instrumental in acquiring the benefits of closure compensation and gratuity pursuant to which the factory restarted it's crushing season for two years.

(h) He refers to Section 30, 114 and 115A of the BIR Act.

(i) He submits that pursuant to the third settlement, which is 8.9.1995, the petitioners / employees would have also got their benefits had they vacated the quarters occupied by them for the past

about 21 years.

12. I have considered the submissions of the learned Advocates for the respective parties.

13. The following provisions of law would be referred to in this judgment:-

INDUSTRIAL DISPUTES ACT, 1947

Section 2 - Definitions

In this Act, unless there is anything repugnant in the subject or context,--

.....

(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include--

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

.....

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

.....

(p) "settlement" means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to [an officer authorised in this behalf by] the appropriate Government and the conciliation officer;

Section 25H - Re-employment of retrenched workmen.

Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity¹ to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen who offer themselves for re-employment shall have preference over other persons.

BOMBAY INDUSTRIAL RELATIONS ACT, 1946

Section 3 - Definitions.

(1) "approved list" means the list of approved unions maintained by the Registrar under section 12;

(2) "approved union" means a union on the approved list;

(17) "industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter;

(33) "Representative Union" means a union for the time being registered as a Representative Union under this Act;

Section 30 - Representative of employees.

Subject to the provisions of section 33A, the following shall be entitled to appear or act in the order of preference specified as the representative of employees in an industry in any local area-

(i) a Representative Union for such industry;

(ii) a Qualified or Primary union of which the majority of employees directly affected by the change concerned are members;

(iii) any Qualified or Primary Union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned;

(iv) the Labour Officer if authorised by the employees concerned;

(v) the persons elected by the employees in accordance with the provisions of section 28 or where the proviso to sub-section (1) thereof applies, the employees themselves;

(vi) the Labour Officer:

Provided -

Firstly, that the persons entitled to appear or act under clause (v) may authorise any Qualified or Primary Union in respect of such industry to appear or act instead of them;

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner;

Thirdly, where in any proceeding the persons entitled to appear or act under clause (v) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled to appear or act instead.

Section 73A - Reference to arbitration by unions.

Notwithstanding anything contained in this Act an employer or a registered union which is a representative of employees and which is also an approved union may refer any industrial dispute for arbitration to the Industrial Court:

Provided that no such dispute shall be referred to the industrial Court,-

- (i) after two months from the date of the completion of the proceedings before the Conciliator;*
- (ii) where the registered union or the employer, as the case may be, has offered in writing before the Conciliator to submit the dispute to arbitration under this Act and the employer or the union, as the case may be, has not agreed to do so;*
- (iii) unless the dispute is first submitted to the Conciliator*

and the conciliation proceedings are completed or the Conciliator certifies that the dispute is not capable of being settled by conciliation:

Provided further that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.

Section 114 - Agreement etc., on whom binding

(1) A registered agreement, or a settlement, submission or award shall be binding upon all persons who are parties thereto:

Provided that-

(a) in the case of an employer, who is a party to such agreement, settlement, submission or award, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement, submission or award is made, and

(b) in the case of a registered union which is a party to such agreement, settlement, submission or award,¹[all employees in the industry in the local area whose representative, the said union is,

shall be bound by such agreement, settlement, submission or award.

(2) In cases in which a Representative Union is a party to registered agreement, or a settlement, submission or award,

the State Government may, after giving the parties affected an opportunity of being heard, by notification in the Official Gazette, direct that such agreement, settlement, submission on award shall be binding upon such other employers and employees in such industry or occupation in that local area as may be specified in the notification:

Provided that before giving a direction under this section the State Government may, in such cases as it deems fit, make a reference to the Industrial Court for its opinion.

(3) A registered agreement entered into by the representatives of the majority of the employees affected or deemed to be affected under section 43 by a change shall bind all the employees so affected or deemed to be affected.

Section 115A - Order, decisions or awards to be in terms of agreement between employer and Representative Union.

If any agreement is arrived at between an employer and a Representative Union who are parties to any industrial dispute pending before an Arbitrator, Wage Board, Labour Court, or Industrial Court, the order, decision or award in such proceeding shall be made in terms of such agreement, unless the Arbitrator, Wage Board, Labour Court or Industrial Court is satisfied that the agreement was in contravention of any of the provisions of this Act or the consent of either party to it was caused by mistake, misrepresentation, fraud, undue influence, coercion or threat.

14. Considering the conspectus of these matters, I have dealt with the issues raised, by placing them under specific heads.

SUPPRESSION OF FACTS

15. Shri Dhorde has strenuously contended that the employees are guilty of suppression of material facts and hence the complaints deserve to be dismissed only on this count.

It is alleged that nowhere have the employees averred in the Complaint as regards the three settlements dated 24.7.1991, 30.3.1993 and 8.9.1995 respectively.

16. I have gone through the Complaints filed by the employees before the Industrial Court and the oral evidence placed before me, threadbare. A host of allegations have been made in the complaints. Since all the Complaints are identical, the employees have produced the copy of the first Complaint (ULP) No.2 of 1996 on records. The pleadings in the Complaint run into 13 pages and the remaining 6 pages contain the signatures of the employees. It appears that the employees have systematically avoided touching any of these three settlements in their entire pleadings. It is only in the prayer clause 13-D that the employees pray for quashing and setting aside the settlement dated 8.9.1995 and the second settlement dated 30.3.1993 (wrongly mentioned as 23.3.1993).

17. It is trite law that unless there are pleadings in the Complaint, no relief can be granted. The employees have pretended as if they are not aware of the three settlements. However, it has come in evidence that by the first settlement, the factory decided to commence the crushing season

initially only for two years. The settlement tenure was for five years, though the settlement provided for operating the crushing season for two years. There is no mention of these facts in the complaint.

18. By the second settlement, dated 30.3.1993, the Union negotiated the terms and conditions for ensuring that the employees would get their legal dues. Pursuant to the said settlement, almost 1000 workers got their legal dues barring the petitioners. It is, therefore, unbelievable that when about 1000 workers have taken the benefit of the second and the third settlement, the petitioners / employees were insentient. This apparently appears to be an act of pretense.

19. If the petitioners / employees are presumed to be unaware about the second and the third settlement, the fact that they have prayed for the quashing and setting aside of the second and the third settlement, indicates that they had the knowledge of the said settlements.

20. The Apex Court in the matter of Bhaskar Laxman Jadhav and others Vs. Karamveer Kakasaheb Wagh Education Society and others [AIR 2013 SC 523], has dealt with the issue of suppression of facts. It is concluded in paragraph Nos.46 and 49 that the obligation of a litigant is to come up - front and with clean hands. It is not for a litigant to decide what facts are material and what are not material for adjudicating a case. It is the obligation of the litigant to disclose all the facts of the case and leave the decision making in the case to the Court. Making a passing a reference can

not be said to be a sufficient disclosure.

21. Paragraph Nos.44 to 49 of the Bhaskar Laxman judgment (supra) read as under:-

“44. While dealing with the conduct of the parties, we may also notice the submission of learned Counsel for Respondent No. 1 to the effect that the Petitioners are guilty of suppression of a material fact from this Court, namely, the rejection on 2nd May 2003 of the first application for extension of time filed by the trustees and the finality attached to it. These facts have not been clearly disclosed to this Court by the Petitioners. It was submitted that in view of the suppression, special leave to appeal should not be granted to the Petitioners.

45. Learned Counsel for the Petitioners submitted that no material facts have been withheld from this Court. It was submitted that while the order dated 2nd May 2003 was undoubtedly not filed, its existence was not material in view of subsequent developments that had taken place. We cannot agree.

46. It is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of a case and leave the decision making to the Court. True, there is a mention of the order dated 2nd May 2003 in the order dated 24th July 2006 passed by the JCC, but that is not enough disclosure. The Petitioners have not clearly disclosed the facts and circumstances in which the order dated 2nd May 2003 was passed or that it has attained finality.

47. We may only refer to two cases on this subject. In Hari Narain v. Badri Das : AIR 1963 SC 1558 stress was laid on litigants eschewing

inaccurate, untrue or misleading statements, otherwise leave granted to an Appellant may be revoked. It was observed as follows:

It is of utmost importance that in making material statements and setting forth grounds in applications for special leave, care must be taken not to make any statements which are inaccurate, untrue or misleading. In dealing with applications for special leave, the Court naturally takes statements of fact and grounds of fact contained in the petitions at their face value and it would be unfair to betray the confidence of the Court by making statements which are untrue and misleading. That is why we have come to the conclusion that in the present case, special leave granted to the Appellant ought to be revoked. Accordingly, special leave is revoked and the appeal is dismissed. The Appellant will pay the costs of the Respondent.

48. *More recently, in Ramjas Foundation v. Union of India : (2010) 14 SCC 38 the case law on the subject was discussed. It was held that if a litigant does not come to the Court with clean hands, he is not entitled to be heard and indeed, such a person is not entitled to any relief from any judicial forum. It was said:*

The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to

pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.

49. *A mere reference to the order dated 2nd May 2003, en passant, in the order dated 24th July 2006 does not serve the requirement of disclosure. It is not for the Court to look into every word of the pleadings, documents and annexures to fish out a fact. It is for the litigant to come up-front and clean with all material facts and then, on the basis of the submissions made by learned Counsel, leave it to the Court to determine whether or not a particular fact is relevant for arriving at a decision. Unfortunately, the Petitioners have not done this and must suffer the consequence thereof.”*

22. I find from the complaint that the employees appear to have intentionally held back the details of the second and the third settlement. They have travelled to the extent of disputing the status and identity of the Secretary Shri G.B.Pol, who is a signatory to the settlement. Apparently, this is with the intention of pretending to be unaware of the settlements and yet questioning the competence of an office bearer of the Union who had earlier signed settlements and fetched several service benefits to these petitioners / employees including their gratuity amount.

23. I, therefore, disapprove the conduct of the petitioners / employees. In the light of the ratio laid down by the Apex Court in the case of Bhaskar Laxman (supra), these petitioners, therefore, deserve to be deprived of any

relief. However, I intend to excuse them for the same considering the fact that they are in litigation for the past about 20 years, without laying down a precedent on this count.

CLOSURE DATED 01.01.1988 AND RE-EMPLOYMENT IN 1991

24. The vital issue with regard to the merits of these matters is the conclusion of the dispute between the two sides with regard to the first closure effected from 1.1.1988. Reference (IC) No. 3 of 1988 travelled upto the Industrial Tribunal on an Industrial Dispute under Section 73A raised by the Union, representing the petitioners / employees. Challenge was to the notice of change dated 3.2.1987. By the third settlement, dated 8.9.1995, the Industrial Tribunal disposed off Reference (IC) No.3 of 1988 in terms of the settlement, dated 8.9.1995. So also, Complaint (ULP) No.275 of 1987 was also withdrawn. This, therefore, puts to complete rest the issue of the closure and the discharge of the employees pursuant thereto. The service tenures of all these employees is, therefore, brought to an end by the award of the Industrial Tribunal dated 19.10.1995. With the said award, the benefits available to the employees out of their employment and their non-employment would be covered by the award dated 19.10.1995.

25. It is an admitted fact that none of the employees have challenged the award dated 19.10.1995 before this Court or before the Honourable Supreme Court. One of the conditions in the third settlement, which has merged into the award, is that the employees who have occupied the

quarters shall vacate the said quarters and they would be paid their gratuity and all retiral benefits.

26. Smt. Kulkarni has strenuously contended that an award delivered by the Industrial Tribunal can be set aside if the same is challenged in a Complaint under the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act "). She has placed reliance upon the judgment delivered by this Court in the matter of Cipla Limited Vs . Anant GaNpat Patil [2008 (1) BCR 78], and Biddal Sawyer Limited Vs. Chemical Employees' Union [2009 (4) Mh. L. J. 289].

27. The contentions of Smt. Kulkarni need to be tested on the basis of the pleadings in the Complaint. Firstly, there are no pleadings in the Complaint pointing out the perversity or illegality in the second settlement dated 30.3.1993 and the third settlement dated 8.9.1995. Secondly, the settlement dated 8.9.1995 and 30.3.1993 are sought to be quashed and set aside, despite the fact that the third settlement dated 8.9.1995 led to the award of the Tribunal dated 19.10.1995. Thirdly, the award dated 19.10.1995 delivered by the Tribunal has not been challenged either before this Court or the Honourable Supreme Court.

28. The facts of the Cipla Limited case (supra) are totally distinct vis-a-vis the facts of this case. It was a settlement in between the parties that was in question in the light of the employees having refused to sign an undertaking as was required by the company Cipla Limited. The said

judgment is, therefore, of no assistance to the employees.

29. In the Biddal Sawyer's case (supra) the issue was as to whether the company had bonafide interpreted the award. It was, therefore, held that if the award is bonafide interpreted by a litigant, it cannot be said that there is a failure to implement the award. What is necessarily to be seen is whether the interpretation of the award was bonafide. In both these judgments, no such law has been laid down that an award of the Tribunal can be questioned before the Industrial Court in a ULP Complaint. Therefore, the challenge of the employees to the third settlement, which has merged into the award dated 19.10.1995, deserves to be rejected.

30. I have gone through the first settlement threadbare considering the strong reliance placed by the learned Advocates for the litigating sides. The Union which represented the petitioners / employees clearly appears to have strenuously exerted in order to convince the management to restart the crushing season. The recital in the said settlement indicates the efforts put in by the Union. The fact that these petitioners / employees were reappointed in the said crushing season for two years is also indicative that they had accepted the first settlement, signed by the same Union leader Shri G.B.Pol. Based on the said first settlement, they were able to work in two crushing seasons due to the efforts of the Union.

31. It has been considered by the Industrial Court that Clause 3(1)(A & B) of the Standing Orders applicable to the factory provided that a seasonal

employee would become seasonal permanent after he has worked continuously for three seasons. There is no dispute that these employees have worked for only two seasons. Nevertheless, this issue is not of much consequence considering the conclusions arrived at by this Court in this judgment.

32. It appears that the employees have tried to co-relate their earlier employments with their fresh engagement pursuant to the first settlement. It cannot be disputed that the issue with regard to the closure dated 1.1.1988 has been put to rest by the award dated 19.10.1995. The engagement of these employees for the two crushing seasons, by virtue of the first settlement, can, at the most, place them within the ambit of Section 25H of the ID Act. Needless to state, their fresh engagement under Section 25H would then be said to be re-employment of retrenched workmen.

RE-EMPLOYMENT POST RETRENCHMENT / DISCHARGE

33. It is trite law that re-employment of a retrenched employee does not entitle him to the same service benefits as were available prior to his retrenchment. In the case of Indian Hume Pipe Company Ltd. Vs. Bhimarao Baliram Gajbhiya [1966 Mh.L.J.625], it has been held that a re-employed workman cannot claim the same conditions of service as were available to him prior to his retrenchment. The contention of Smt. Kulkarni that since the employees have been reinstated in service, they deserve to be treated

as permanent employees, deserves to be rejected.

33. Paragraphs 1 to 3 and 6 of the Indian Hume Pipe's judgment (supra) read as under:-

"1. The facts giving rise to this application are that respondent 1, hereinafter referred to as the respondent, had been employed by the petitioners sometime in 1960. After about two years' service, he was retrenched on March 10, 1962 and was paid retrenchment compensation in accordance with the provisions of S.25F of the Industrial Disputes Act, 1947. At the time when the respondent was retrenched, a proceeding under S. 38A of the central Provinces and Berar Industrial Disputes Settlement Act, 1947, was pending before the State Industrial Court in that proceeding, the respondent became entitled to a basic wage of 86 Np in addition to dearness allowance of Rs. 1.75 on the date of his retrenchment. The respondent was reemployed on 1 October, 1962. According to the employment order issued to him he was to be paid a basic wage of 62 Np and dearness allowance of Rs. 1.75. Under the award 63 Np was the basic wage fixed for new entrants. The respondent subsequently made an application to the labour court under S.33C(2) of the Industrial Disputes Act. He contended in that application that he was entitled to receive the same wages from the date of his re-employment as were being paid to him on the date of his retrenchment, that is, 86 Np per day apart from dearness allowance. He complained that he had been paid 24 Np less per day and accordingly he claimed Rs. 65 from the petitioner. The petitioner resisted the application of the respondent and raised various contentions. The principal contention of the petitioner was that as the respondent had been paid retrenchment compensation, he was liable to be treated as a new entrant and accordingly entitled only to the basic wage of 62 Np which is the wage fixed for new entrants

by the award. This argument was not accepted by the labour court, which relied upon the decision of the Andhra Pradesh High Court in Indian Hume Pipe Company v. Labour Court. The labour court therefore, made an order directing the petitioner to pay Rs. 65 to the respondent. That order has been challenged before us in this application.

2. *Section 25H of the Industrial Disputes Act provides that where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen to offer themselves for re-employment and retrenched workmen who offer themselves for reemployment shall have preference over other persons. This section, therefore, imposes an obligation on an employer to give first preference to retrenched workmen whenever he decides to increase the strength of his establishment and employ some persons. The employer must first offer the job to a retrenched workman before he can engage any other person. Under the section an offer is to be made to retrenched workmen before he can (sic). According to the Oxford Dictionary "re-employ" means "employ again" or "take back into employment." "Re-employment" means taking back in employment, but it does not necessarily imply that the taking back into employment or service must be on the same terms and conditions, to which the employee was entitled previously. Section 25H only gives a right to worker to have preference in the matter of re-employment, but we do not find anything in the section, or any other provision in the Act which also gives him a right to secure employment on his previous terms and conditions of service. Under S. 25F, when a worker is retrenched, he gets compensation for the loss of service. The amount of this compensation depends on the length service put in by him. His previous service is, therefore, taken into consideration when the retrenchment compensation is paid.*

3. *Thereafter, the only right, available to him by reason of his having been previously employed, is that conferred on him by S. 25H and that is of preference in securing the employment. If the argument that a worker is entitled to be re- employed on his previous terms and conditions of service is accepted, the position would be that if a worker is retrenched again, he would be entitled to have his previous service also taken into consideration for the purpose of determining the retrenchment compensation payable to him. It could not have been intended by the legislature that the same period of service should be taken into consideration more than once for the purpose of paying retrenchment compensation.*

4.

5.

6. *With respect, we find ourselves unable to agree that the word "reemployment" necessarily connotes employment on the same terms as before. All that S. 25H provides for is preference to retrenched workmen in securing employment, but it does not say that the reemployment should be on the former terms and conditions of service. If that had been the intention of the legislature, it would have made a specific provision to that effect."*

SECTION 2(oo)(bb) OF THE INDUSTRIAL DISPUTES ACT, 1947

35. Shri Dhorde, learned Sr. Advocate has invoked Section 2(oo)(bb) in support of his contention that as the first settlement clearly indicated that the factory would operate only for two crushing seasons, the same was, therefore, a contractual engagement of these employees. By the Standing

Orders applicable to these employees, it has been concluded by the Industrial Court that unless the seasonal workers did not work for three crushing seasons, they would not be seasonal permanent. Moreover, the earlier closure of 1.1.1988 has, therefore, closed the issue of the earlier employment of these employees.

36. As such, in my view, the present engagement of the employees as per the first settlement and for a period of two crushing seasons will, therefore, construe to mean a stand alone contract. The employees were offered work under the first settlement and it is nobody's case that they were reinstated in service with continuity. Since the work offered through the first settlement, which operates as a contract, came to an end after the second crushing season, I do not find that the stopping of the second crushing season would, therefore, amount to retrenchment of the employees. The said contractual employment came to an end after two crushing seasons and hence it would not amount to retrenchment, as is the contention of the employees. Section 2(oo)(bb) would, therefore, be applicable to their cases. Consequentially, Section 25(N) and 25(O) would not be applicable in these cases.

RESIGNATION ISSUE

37. In so far as the resignation of the employees is concerned, it is evident from the Complaints that the employees have stated that the management has obtained their signatures on blank papers. It is averred

that they have not resigned. However, it has come before the Industrial Court by way of oral and documentary evidence that their signatures are found below their resignation letters. Their witness has identified their signatures. Based on these aspects, the Industrial Court has come to a conclusion that the employees had, in fact, resigned from service. About 1000 employees have collected their clearance certificates and have received their legal dues. Several amongst these petitioners / employees did not obtain their clearance certificate as they did not vacate the quarters as a consequence of which their legal dues have not been cleared.

38. The petitioners / employees have failed to point out any such piece of evidence, which would convince me to unsettle the conclusions of the Industrial Court that these employees had in fact resigned from their employment and were not entitled for any retrenchment compensation. Notwithstanding the fact that I have concluded that Section 2(o)(bb) is applicable in this case, the petitioners / employees have been unable to convince me that the Industrial Court has erroneously concluded that they have resigned.

DIRECTIONS BY THE INDUSTRIAL COURT

39. The Industrial Court in the impugned judgment has passed the following order:-

“ The complaints are partly allowed.

It is hereby declared that the respondent No.1 has engaged in unfair labour practice under item 9 of Schedule IV of the MRTU & PULP Act, 1971.

The respondent is directed to cease from engaging such unfair labour practice.

The respondent No.1 is hereby directed to pay closure compensation to the complainants who were permanent and who have worked during the crushing season of the year 1991-92 and 1992-93 but who have not resigned.”

40. Notwithstanding the conclusion arrived at by this Court, the issue, is as to whether the factory has paid any compensation to the other employees after the stopping of the crushing season on 13.4.1993 by virtue of the third settlement. It has been contended on instructions by Shri Dhorde that several workers who obtained clearance certificates by vacating the quarters, were paid their compensation only on that condition.

41. I have concluded hereinabove that the employees freshly appointed under the first settlement would not be entitled for insisting on the earlier terms and conditions of service. I have also concluded that the closing of the crushing season on 13.4.1993 would not amount to retrenchment of the employees. However, by the second settlement dated 30.3.1993, it was resolved that until the factory restarts, the names of the employees would be maintained on its rolls. It was only after the third settlement, which has merged in the award dated 19.10.1995 that the employees were entitled to

a compensation package.

42. It has been stated by the factory management that though compensation was not payable to the employees of the factory, yet it has been paid to them. It has been specifically stated that the factory has made payment of compensation to a large number of employees and has obtained receipts to indicate such payments. If that be so, these employees, who may be entitled for such payment of compensation on the condition of vacating the quarters, could be held eligible for such compensation in the light of the statement made by the factory / management that about 372 employees, out of 1036, were paid compensation as the rest were all seasonal employees.

43. I have considered the impugned judgment of the Industrial Court. I find that every issue raised by the litigating sides in their complaints and the written statements of the management have been dealt with by the Industrial Court in its judgment which runs into almost 49 paragraphs. The Industrial Court has appreciated on the basis of the oral and documentary evidence, that though all these employees were engaged as fresh hands under the first settlement, their designation was protected. The factory / management has considered some of the employees to be permanent employees and have accordingly paid the compensation to the said employees by virtue of the terms and conditions under the Award dated 19.10.1995.

44. The issue, therefore, is that, though these employees were not entitled for retrenchment compensation, considering the conclusions of the Industrial Court as well as the conclusions of this Court set out hereinabove, the management has still paid compensation to such employees, who were earlier its permanent employees.

45. I, therefore, do not find any reason to interfere with the direction of the Industrial Court to the management to pay closure compensation only to those petitioners / employees who were earlier permanent, who had worked in the crushing season of 1991-92 and 1992-93 and who had not resigned from the employment.

46. However, I find it fit to add to the said direction, a condition that if any of such eligible employees are occupying the quarters of the factory / management, they shall vacate the same, within a period of twelve weeks from today. The compensation to be paid by the factory / management to such employees shall be payable within three weeks after they vacate the quarters. In the case of those eligible employees who are not occupying the quarters, such compensation shall be paid within three weeks from today. In the case of those petitioners / employees who are not eligible for compensation, but are occupying the quarters, they shall vacate the said quarters within twelve weeks from today.

47. In the light of the above, the first four petitions filed by the employees stand dismissed. The fifth petition, which is filed by the

factory / management is partly allowed, in the light of the observations set out hereinabove and to the extent of the modification in the direction of the Industrial Court by the addition of the condition of vacating the quarters in paragraph Nos.45 and 46.

48. Rule is discharged in the first four petitions and partly made absolute in the fifth petition.

49. Smt. Kulkarni has made a request on 14.3.2016, that if the petitions filed by the employees are dismissed, the judgment of this Court be stayed for twelve weeks. Shri Dhorde had opposed the said request.

50. Considering the direction set out above, since a period of twelve weeks has been granted to the petitioners / employees occupying the quarters to vacate the same, I do not find that this judgment needs to be stayed as twelve weeks time is already made available to the petitioners.

(RAVINDRA V. GHUGE, J.)

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akl/d