

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

WRIT PETITION NO. 8476 OF 2016

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Sagar s/o. Tukaram Narkar
Age: 32 years, Occ: Nil,
R/o. Kabeer Nagar, Osmanpura,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8486 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Sangitabai Bhaskar Kamble,
Age: Major, Occ: Nil,
R/o. Nagsen Nagar, Osmanpura,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8487 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,

Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Bhartibai W/o. Vijay Bhalerao,
Age: 37 years, Occ: Nil,
R/o. Near Bhadkal Gate,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8488 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Kantabai W/o. Ashok Gangawane,
Age: 42 years, Occ: Nil,
R/o. Jaibheem Nagar, Town Hall,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8489 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Kasturabai Annu Alkunte,
Age: 54 years, Occ: Nil,
R/o. Jaibheem Nagar, Pragati Colony,
Town Hall, Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8490 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Sundarbai W/o. Suryabhan Mhaske,
Age: 40 years, Occ: Nil,
R/o. Jaibheem Nagar, Anand Nagar,
Asifiya, Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8491 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Anita W/o. Bhagwan Ugale,
Age: 37 years, Occ: Nil,
R/o. Near Dr. Babasaheb Ambedkar Garden,
Gulabwadi, Jai Bheem Nagar, Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8492 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Kailas S/o. Uttamrao Hiwrale,
Age: 28 years, Occ: Nil,
R/o. Jaibeem Nagar, Town Hall,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8493 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Chandrakalabai W/o. Bhagwan Hiwrale,
Age: Major, Occ: Nil,
R/o. Kachiwada, Jadhav Mandi,
N-7, CIDCO, Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8494 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete,
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Amol S/o. Dhuraji Suryanarayan,
Age: 27 years, Occ: Nil,
R/o. Ambedkar Nagar, N-7, CIDCO,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8498 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Rekhabai Raosaheb Hiwrale,
Age: Major, Occ: Nil,
R/o. Jaibhimnagar, Town Hall,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8499 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Bharat S/o. Devidas Kale,
Age: 32 years, Occ: Nil,
R/o. Ektanagar, Harsool,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8506 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Nandu S/o. Sundarlal Sable,
Age: 39 years, Occ: Nil,
R/o. Begumpura, Ghati Area,
Aurangabad.

...RESPONDENT

**WITH
WRIT PETITION NO. 8507 OF 2016**

The Commissioner,
Aurangabad Municipal Corporation,
Through its Legal Advisor,
Aparna Krishnakumar Thete
Age: 37 years, Occu: Service as Legal Advisor,
Aurangabad Municipal Corporation,
Aurangabad.

...PETITIONER

Versus

Bhagwan S/o. Sampatrao Ugale,
Age: 37 years, Occ: Nil,
R/o. Jaibheem Nagar, Town Hall,
Aurangabad.

...RESPONDENT

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Advocates for the Petitioners : Shri S.S.Tope
Advocate for the Respondents : Shri R.K.Khandelwal

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 10, 2016

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner - Municipal Corporation in all these matters is challenging the orders passed by the Labour Court on Misc. Applications. The said applications were filed by the identically placed respondents, who were seeking restoration of the original reference proceedings and were praying for condonation of delay in filing of the applications. The specific details about the respondent / employees, their reference case numbers, dates of award and the dates of their applications for condonation of delay, are set out in a tabular form as under:-

Sr	WP No.	Respon- dent	Misc. Appln. No.	Ref.No.	Date of Award	Date of verification on Delay Condonation Application	Delay in Days
1	8476/2016	Sagar Tukaram Narkar	22/2014	214/2010	4.2.2013	27.6.2014	460
2	8486/2016	Sangita Bhaskar Kamble	17/2014	422/2010	28.3.2011	12.6.2014	1120
3	8487/2016	Bhartibai Vijay Bhalerao	19/2014	415/2010	28.3.2011	27.6.2014	1120
4	8488/2016	Kantabai Ashok Gangawane	18/2014	420/2010	28.3.2011	27.6.2014	1120
5	8489/2016	Kasturbai Annu Alkunte	11/2014	405/2010	28.3.2011	27.6.2014	1120
6	8490/2016	Sundarbai Suryabhan Mhaske	21/2014	210/2010	4.2.2013	27.6.2014	460

7	8491/2016	Anita Bhagwan Ugale	20/2014	208/2010	4.2.2013	27.6.2014	460
8	8492/2016	Kailash Uttamrao Hiwrale	15/2014	427/2010	28.3.2011	27.6.2014	1120
9	8493/2016	Chandra- kalabai Bhagwan Hiwrale	24/2014	404/2010	28.3.2011	27.6.2014	1120
10	8494/2016	Amol Dhuraji Surya- narayan	13/2014	215/2010	4.2.2013	27.6.2014	460
11	8498/2016	Rekhabai Raosaheb Hiwrale	9/2014	406/2010	28.3.2011	27.6.2014	1120
12	8499/2016	Bharat Devidas Kale	10/2014	417/2010	28.3.2011	27.6.2014	1120
13	8506/2016	Nandu Sundarlal Sable	12/2014	213/2010	4.2.2013	27.6.2014	460
14	8507/2016	Bhagwan Sampatrao Ugale	23/2014	269/2010	4.2.2013	27.6.2014	460

5. The admitted fact situation is that in all the above matters, the Reference Cases, registered with the Labour Court at Aurangabad, in which the petitioner was the first party employer and the respondents herein were identically placed second party workmen, have been dismissed as the respondents did not approach the Labour Court for presenting their statements of claims.

6. It is also undisputed that all the awards at issue have been published by the Labour Court by following the due procedure laid down under the Industrial Disputes Act, 1947 and the Industrial

Disputes (Bombay) Rules, 1957. It is also admitted that all the Misc. Applications were filed by the respondents after about 400 to 1100 days from the date of the publication of the awards.

7. Shri Tope, learned Advocate for the petitioner submits that the Labour Court had lost jurisdiction over the matters after 30 days from the date of the publication of the award and hence, had no jurisdiction to exercise over such matters.

8. Shri Khandelwal, learned Advocate appearing on behalf of all the respondents submits that all the respondents are workers and poor persons. Though their addresses were mentioned in the order of reference, they did not receive notices and therefore, were not aware that the Reference proceedings had commenced before the Labour Court. He places reliance upon an unreported order of this Court dated 6.9.2010, delivered in Writ Petition No.8682 of 2009 [Rajman Srikrishna Morya Vs. Marshall Security Private Limited]. Contention is that this Court has held that the delay was explained in the matter as the impugned order was not an award and hence the application for condonation of delay could be entertained.

9. I do not find that the submissions of Shri Khandelwal could be accepted since in the Rajman case (supra) the issue as to whether the Labour Court became *functus officio* was neither raised nor

canvassed. This Court, in the matter of Dnyaneshwar Anantrao Kulkarni Vs. The Superintendent Engineer, PWD and others [2015 III CLR 81], has dealt with the issue of Sections 17 and 17A of the ID Act 1947 read with the Bombay Rules. It was concluded that the Labour Court would lose its jurisdiction after 30 days of the publication of the award, considering the ratio laid down by the Honourable Supreme Court in Sangham Tape Company Vs. Hansraj [(2005) 8 SCC 331]. This judgment was not cited in the Rajman case (supra).

10. In the present case, the Reference has been rejected as there was no party before the Labour Court, even to present the statement of claim. The Reference was, therefore, answered in the negative. As such, the respondents in the present cases could surely challenge the awards in this Court.

11. Notwithstanding the above, even if it is to be considered as to whether the reasons cited by the respondents for condonation of delay were justified or not, it cannot be ignored that the delay is in between 460 to 1100 days. The addresses supplied by the respondents were of their own Union Leader. If notices are issued to the said leader and if the said Union Leader does not intimate the concerned Advocate or the respondents herein, the reasons assigned, prima facie, may not appear to be justified.

12. Nevertheless, the respondents herein, can challenge the rejection of the Reference matters, by obtaining a copy of the award passed by the Labour Court, through Writ Petitions before this Court. The said remedy cannot be taken away and the respondents would be at liberty to take recourse to the same.

13. In the light of the above, these petitions are allowed. The impugned orders are quashed and set aside and the Misc. Applications are rejected.

14. Nevertheless, the respondents are at liberty to assail the rejection of their reference before this Court, through Writ Petitions and the time spent by the respondents before the Labour Court in the pending proceedings and in this Court in these petitions, could be considered as a ground for entertaining the Writ Petition.

15. Rule, in all these petitions, is made absolute accordingly.

(RAVINDRA V. GHUGE, J.)

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