

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12144 OF 2016

M/s Shirish Polychem (P) Ltd.,
Through its Director
Mr. Shirish S/o Raghunath Kandi,
Plot No.K-251, MIDC,
Waluj,
Aurangabad – 431 136

– PETITIONER

VERSUS

1. Machindra s/o Kisanrao Kanhe,
Age-40 years, Occu-Nil,
R/o at Ganeshwadi, Tq.Gangapur,
Aurangabad,
2. Janardhan S/o Annasaheb Gore,
Age-47 years, Occu-Nil,
R/o Waluj, Tq.Gangapur,
Dist.Aurangabad,
3. Parasram s/o Bhausahab Pawar,
Age-42 years, Occu-Nil,
R/o At Post Wahegaon, Tq.Paithan,
Dist.Aurangabad,
4. Uttareshwar s/o Uddavrao Pawar,
Age-30 years, Occu-Nil,
R/o.Bhokaramba, Tq.Renapur,
Dist.Latur,
5. Ramnath s/o Pandharinath Bobade,
Age-44 years, Occu-Nil,
R/o At Post : Wahegaon, Tq.Paithan,
Dist.Aurangabad,
6. Tulshidas s/o Ashok Thore (died),
Through his LR : Vandana Tulshidas Thore,
R/o : At Kekat-Jalgaon, P.O.Dongaon,
Tq.Paithan, Dist.Aurangabad,

7. Sudhakar s/o Uttamrao Vane,
Age-39 years, Occu-Nil,
R/o at Kekat-Jalgaon, P.O.Dongaon,
Tq.Paithan, Dist.Aurangabad,
8. Ravi s/o Durgaprasad Shriwas,
Age-28 years, Occu-Nil,
R/o At P.O.Chandrapur, Balaji Nagar,
Dist.Chandrapur (Vidharba),
9. Sanjay s/o Raghunath Bobade,
Age-41 years, Occu-Nil,
R/o At P.O.Wahegaon, Tq.Paithan,
Dist.Aurangabad

– RESPONDENTS

Mr.Y.I.Thole, Advocate for the petitioner.
Mr.G.C.Navandar, Advocate for respondent No.1.
Mr.S.N.Kendre, AGP for the respondent/State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 13/12/2016

ORAL JUDGMENT :

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

2. The petitioner is aggrieved by the order of the Industrial Court dated 23/09/2016 by which the application for interim relief Exhibit C-2 in Revision (ULP) NO.56/2015 has been partly allowed. Grievance is that the direction to deposit back wages of the respondents for the period of termination 11/08/2009 till

28/07/2015 as directed by the Industrial Court, has caused grave prejudice to the petitioner.

3. I have heard the submissions of Mr.Thole, learned Advocate for the petitioner/Management and Mr.Navandar, learned Advocate on behalf of the respondents/employees.

4. Notwithstanding the strenuous submissions of the petitioner, it cannot be lost sight of that after the Labour Court granted reinstatement with continuity and back wages from 11/08/2009. On filing of Revision (ULP) No.56/2015, though the Industrial Court found it proper to stay the order of reinstatement, it has directed the petitioner to deposit the back wages for the abovesaid period.

5. It is apparent that the revision proceedings are pending and by an interlocutory order, the Industrial Court has tried to balance the equities by staying the judgment of the Labour Court on the condition that the back wages are deposited.

6. The petitioner submits that if the back wages for a period of about 6 years are to be deposited before the Industrial Court, the petitioner would be financially weakened and may have to close down

its factory on account of financial problems. It is further submitted that if a small amount of back wages was directed to be deposited, the petitioner would have complied with the directions. However, a huge amount cannot be deposited by the petitioner which is a tiny industry.

7. It is trite law that interlocutory orders in the nature of granting interim relief, have to be equitable orders and the Court passing such orders, has to ensure that equities are balanced. It is also trite law that interlocutory orders are not to be interfered with lightly unless they are perverse, erroneous and would cause grave injustice.

8. I find that the respondents herein are without employment from 11/08/2009. After a prolonged legal battle, they succeeded in their complaint when the Labour Court granted them the reliefs by judgment dated 17/02/2015. Their order of reinstatement has been stayed by the Industrial Court and the amount directed to be deposited is further directed to be invested in a fixed deposit in a Nationalized Bank, by the Industrial Court. In effect, the respondents would not be getting reinstatement as well as some succor though the amount is directed to be deposited. However, by passing the impugned order, the Industrial Court has ensured that

the portion of the back wages granted by the Labour Court would be secured while staying the order of reinstatement.

9. In the light of the above, I do not find that the impugned order could be termed as being perverse or erroneous or causing gross injustice to the petitioner. The Industrial Court has balanced the equities and such an interlocutory order, therefore, does not call for interference.

10. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.

11. At the request of the petitioner and by consent of the learned Advocate for the respondent, the time to deposit the money as directed by the Industrial Court, is extended by 6 weeks, failing which the respondents would be at liberty to seek execution of the judgment of the Labour Court.

(RAVINDRA V. GHUGE, J.)