

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 1590 OF 2016****State Institute of Educational Technology
(Balchitrawani) & Ors.****..... Petitioners****VERSUS****Ulhas Shankar Godse & Ors.****..... Respondents**

Mr.A.D.Kango, A.G.P. for the State.

Mr.Surel Shah for Respondent Nos. 1 to 16.

CORAM : R.D. DHANUKA, J.**DATED : 14th MARCH, 2016****P.C.**

By this writ petition filed under section 226 of the Constitution of India, the petitioners have impugned the order passed by the Industrial Court, Pune in Complaint (ULP) No.242 of 2015 dated 3rd December, 2015 passed by the Industrial Court, Pune allowing the complaint filed by 16 complainants who were admittedly in the employment of the petitioners. The Industrial Court directed the petitioners to pay the wages of those 16 employees which were in arrears for last more than 16 months.

2. The complainants were admittedly working with the petitioners for last 20 years. The petitioner no.1 is an autonomous body engaged in the manufacturing of educational compact disks. Since the complainants were not paid wages since 2014 though they worked with the petitioners, the complainants filed a complaint alleging unfair labour practice under item 9 of the MRTU & PULP Act against the petitioner and demanding the payment of arrears of wages.

3. It is not in dispute that in the month of January 1982, the Government of India had decided to establish Institutes of Educational Technology in four States including in the State of Maharashtra. It was decided by the Government of India that for the first five years, the Central Government shall provide 100% financial assistance for setting up these establishments, for their maintenance, etc. and also for the salaries of all the employees. It was decided that after five years, the State Government shall bear all the expenses. The petitioner was set up by the Government of Maharashtra as a permanent programme production centre and created 28 posts. The petitioner was getting 100% financial support in the form of grants, including grants for salaries of the staff from the Ministry of HRD, Government of India.

4. In the month of December 2002, the Central Government informed the State Government that it would not be possible for the Central Government to continue financial support to the petitioner and made it clear that it was the responsibility of the State Government to bear the said burden.

5. It was the case of the petitioner before the Industrial Court that in view of the financial policy of the Government in so far as release of grant is concerned, the petitioner could not pay the arrears of salary to the complainants for last 16 months. It was the case of the petitioner that the petitioner did not have any independent source of income and due to unavailability of grant from the Central Government, the petitioner was not in a position to pay salary of the complainants on priority basis.

6. Learned counsel appearing for the petitioner submits that after passing of the impugned order by the Industrial Court, the petitioner had referred the issue to the Central Government once again for their intervention. Learned counsel invited my attention to the decision taken by the Central Government on such representation. He submits that the Central Government has refused to pay the grant on the ground that the respondents are neither the employees of the State Government nor the Central Government.

7. Mr. Shah, learned counsel appearing for the respondents on the other hand invited my attention to the findings recorded by the Industrial Court and would submit that for last 20 years, the respondents were the employees of the petitioners. He submits that the petitioner was fully aware that the Central Government had decided to pay the expenditures only for first five years and subsequently it was the responsibility of the State Government to bear all such expenses. He submits that merely because the Central Government has refused to provide any grant to the petitioner, the petitioner cannot refuse to pay the salary and other benefits to the respondents on that ground. He submits that there is no reason for the petitioner not to pay the arrears of about 16 months to the respondents. He submits that the petitioners has never disputed the fact that the respondents were covered within the definition of workmen and thus were entitled to recover the salary. He submits that since the salary of the respondents was not paid by the petitioners, it amounted to violation of the basic condition of service and thus the complaint under item 9 of the said Act was maintainable.

8. It is submitted by the learned counsel that the petitioner had applied for extension of time from time to time before the Industrial Court for compliance of the order passed by the Industrial Court and had accepted their liability. Merely

because the Central Government has subsequently taken a view that the respondents were neither the employees of the petitioners nor of the Central Government is irrelevant. He submits that in any event the said stand taken by the Central Government is contrary to the facts on record. The Central Government as well as the State Government both had all throughout considered the respondents as workmen.

9. A perusal of the record clearly indicates that the respondents were paid the salaries from time to time for last about 20 years considering them as workmen. The Central Government had made it clear that the liability of Central Government to pay the salaries and wages of the workmen would be five years and subsequently of the petitioners. In my view the petitioners thus cannot refuse to pay the salaries and wages of the respondents on the ground that the Central Government has stopped paying grant to the State Government.

10. A perusal of the record further indicates that the petitioners had obtained several extensions from the Industrial Court for complying with the order passed by the Industrial Court and to pay the arrears of the wages of the respondents. The petitioners have thus accepted their liability to pay the said amount of arrears to the respondents.

11. Insofar as the decision taken by the Central Government after passing of the impugned order by the Industrial Court is concerned, in my view the said stand taken by the Central Government is contrary to the fact on record. Be that as it may, the State Government cannot refuse to pay the liabilities of the respondents insofar as payment of salary, wages and other benefits of the respondents are concerned.

12. In my view the petition is devoid of merits and is accordingly dismissed. The respondents are at liberty to take appropriate steps to implement the order passed by the Industrial Court. No order as to costs.

[R.D. DHANUKA, J.]