

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1126 OF 2016

The Uran Municipal Council
Through its Chief Officer : **Petitioner.**
versus
Sanjay Dattatrey Date and ors. : **Respondents.**

**ALONG WITH
WRIT PETITION NO.8833 OF 2016**

The Uran Municipal Council
Through its Chief Officer : **Petitioner.**
versus
Santosh Sudhakar Pawar and ors. : **Respondents.**

**Mr. S B Shetye for the Petitioners in both the Petitions.
Mr.Sachin Kamkal, AGP, for the Respondent Nos.2 and 3.**

CORAM : R. M. SAVANT, J.
DATE : 01st September 2016

P.C.

1 The learned counsel for the Petitioner seeks leave to amend so as
to incorporate ground (AA) in both the above Petitions. Leave granted.
Amendment to be carried out forthwith.

2 The writ jurisdiction of this Court is invoked against the judgments and orders dated 02/08/2013 by which orders the Misc. Application (ULP) Nos.8 of 2012 and 8 of 2011 came to be allowed and it was held that the Applicant i.e. the Respondent in Writ Petition No.1126 of 2016 is entitled to recovery of an amount of Rs.1,54,750/- and the Applicant i.e. the Respondent

in Writ Petition No.8833 of 2016 is entitled to recovery of an amount of Rs.98180/- from the Petitioner Municipal Council who was the opponent in the said proceedings.

3 The said orders have been passed under Section 50 of the MRTU & PULP Act, 1971. The said orders have been founded on the Applications (Exhibit C-4) filed on behalf of the Petitioner – Municipal Council herein by one of its officers wherein it was stated that the Municipal Council has no objection in allowing the Applications filed by the Applicants i.e. the Respondents above named. The learned Judge of the Industrial Court in the light of the said Applications (Exhibit C-4) recorded that the learned counsel for the Petitioner has fairly admitted the amounts mentioned in the Applications filed by the Respondents above-named i.e. Misc. Application (ULP) No.8 of 2011 and Misc. Application (ULP) No.8 of 2012 before the Court and made endorsement to that effect on the Applications. The learned Judge accordingly held the Applicants i.e. the Respondents above-named entitled to the amounts claimed by them and accordingly answered the issue framed in the affirmative and resultantly allowed the said Applications filed by the Applicants i.e. the Respondents above-named.

4 It is the case of the Petitioner herein as sought to be incorporated by way of seeking amendment so as to include ground (AA) that the concerned

officer of the Petitioner Municipal Council who had filed the Applications (Exhibit C-4) was not authorized to give the said concession. It is further the case of the Petitioner herein that the said concession was totally contrary to the grounds taken in the Written Statement.

5 In identical cases between the Petitioner Municipal Council and the concerned workman being Writ Petition Nos.3957 of 2014 and 3958 of 2014 a learned Single Judge of this Court has disposed of the said Writ Petitions by permitting the Petitioner to make an appropriate application to the Industrial Court as may be advised in respect of the stand taken by the Petitioner in the additional affidavit, which was the same as sought to be taken by way of ground (AA) in the instant Petitions, as the learned Single Judge found that the Petitions could not be entertained in the present form meaning thereby that unless the Industrial Court had adjudicated the Application filed by the Petitioner on the touchstone of the said ground, it would not be possible for this Court to entertain the Petitions founded on the said ground. The said Petitions were accordingly rejected.

6 Since the facts are identical inasmuch as the ground on which the orders are sought to be assailed is the same ground on which the said Writ Petitions were founded, in the instant Writ Petitions also the same course of action is required to be followed. Hence the Petitioner Municipal Council in

both the above Petitions would be at liberty to make an appropriate Applications to the Industrial Court as may be advised in respect of the stand taken by the Petitioner Municipal Council in the said ground (AA). If such Applications are filed, needless to state that the said Applications would be tried on their own merits and in accordance with law. With the aforesaid directions, the above Writ Petitions are disposed of.

[R.M.SAVANT, J]