

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

WRIT PETITION NO.7995 OF 2016

Chief Executive Officer

Shri Jagdamba Anusuchit Jati Jamati

Vinkar Sahakari Soot Girni Ltd, Solapur : Petitioner.

versus

Shaukat M Rafiq Shaikh and anr. : Respondents.

Mr. Suhas S Inamdar for the Petitioner.

CORAM : R. M. SAVANT, J.

DATE : 03rd October 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 10/03/2016 passed by the learned Member of the Industrial Court, Solapur by which order the Complaint in question being Complaint (ULP) No.51 of 2010 came to be partly allowed and resultantly the directions which are contained in the operative part and especially clauses (iii) and (iv) came to be issued. the said directions are reproduced herein under for the sake of ready reference.

(iii) It is held and declared that, the respondent no.1 has engaged in the unfair labour practices under Section 28, Schedule IV, Item No.9 of the MRTU & PULP Act, 1971, and it is further directed to cease and desist from engaging in the same, forthwith.

(iv) The respondent no.1 is directed to pay the complainant an amount of Rs.1,30,011.50 paise, within a period of one (1) month from the date of passing of this order along with interest at the rate of Rs.10/- per cent per annum from 23/06/2003, till the realization of the same in full.

2 The cause for filing the Complaint in question by the Respondent No.1 herein was on account of the fact that Respondent No.1 herein was not paid wages and other benefits for the period in which he was working for the Petitioners i.e. between August 1998 and May 2003. The Respondent No.1 claimed an amount of Rs.9,81,000/- from the Petitioner herein. However, after the parties led evidence and having regard to the said evidence the learned Member of the Industrial Court held that the Respondent No.1 i.e. the Complainant would be entitled to the payment of an amount of Rs.1,30,011.50 paise which was the amount towards wages for the said period between August 1998 and May 2003. In so far as the claims towards gratuity etc are concerned, the learned Member held that there can be no dispute about the fact that the said amounts have been paid to the Respondent No.1 – Complainant. The learned Member however held that there is no evidence to show that the Complainant was entitled to receive the amount of Rs.9,81,000/-

from the Petitioner. However, in so far as the amount of Rs.1,30,011.50 paise is concerned, the learned Member of the Industrial Court adverted to the fact that though it has come in the evidence of the Complainant that a cheque for the said amount was given to him, the evidence discloses that the said amount was actually deposited in the account of the Respondent No.2 which was another Soot Girni. The learned Member therefore concluded that the Complainant did not receive the amount of Rs.1,30,011.50 paise and accordingly restricted the relief granted in the Complaint to the said amount. The learned Member had adverted to the fact that the Petitioner herein and the Respondent No.2 herein were headed by the same person as Chairman at the relevant time.

3 The learned counsel appearing on behalf of the Petitioner Shri Suhas Inamdar would contend that since there can be no dispute about the fact that a cheque for the amount of Rs.1,30,011.50 paise was given to the Respondent No.1 herein, the learned Member of the Industrial Court has erred in allowing the complaint and directed the Petitioner to make payment of the said amount. It was the contention of the learned counsel for the Petitioner that the grievance, if any, that the Respondent No.1 may have in respect of the said amount would only be against the Respondent No.2.

4 It is not possible to accept the aforesaid contentions of the learned

counsel for the Petitioner. In the instant case, there is no dispute about the fact that the Respondent No.1 – Complainant has not received the amount and that the amount was deposited in the account of the Respondent No.2. There is also no dispute about the fact that at the relevant time the Chairman of the Petitioner and the Respondent No.2 herein was the same person. If the Respondent No.1 - Complainant has not received the said amount of Rs.1,30,011.50 paise which was the amount due to him for wages for the period between August 1998 and May 2003, the Respondent No.1 – Complainant would obviously be entitled to the said amount. If the amount has been deposited in the account of the Respondent No.2, it is for the Petitioner to take appropriate steps for recovery of the said amount from the Respondent No.2. However, on the said basis the Petitioner cannot absolve itself of its liability towards the Respondent No.1 – Complainant. In my view, therefore, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]