

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION***

| Sr. No. | Name of the Petitioner                                                                                                                               | In W.P. No.  |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1       | Anant Raghvendra Raddi,<br>Kohasita CSH Ltd., Saraswati Colony,<br>Opp. Panchayat Bawdi, Dombivli(E),<br>Thane – 421 201.                            | 2335 of 2015 |
| 2       | Manisha Digamber Parab,<br>Leo Group CHS Ltd., 3 <sup>rd</sup> flr., D-Wing,<br>Nr.Paraga Vidyalay, Shivaji Talao,<br>Bhahdup (W), Mumbai – 400 078. | 121 of 2016  |
| 3       | Satish Vasant Lachke,<br>R/at 17/507, Pant Nagar,<br>Ghatkopar (E), Mumbai – 75.                                                                     | 427 of 2016  |
| 4       | Shridhar Govind Rane,<br>R/at Bldg. No.16, Tilak Nagar,<br>Chembur (E), Mumbai.                                                                      | 433 of 2016  |
| 5       | Smt.Philemena Custodia Fernandes,<br>R.No.3, Nr.Bombay Pharmaceuticals<br>College, Kalina, Santacruz (E),<br>Mumbai – 400 098.                       | 463 of 2016  |
| 6       | Jaywant Rajaram Jadhav,<br>R.No.617, Subhash Nagar,<br>Chembur, Mumbai – 400 071.                                                                    | 479 of 2016  |
| 7       | Kesarinath Meghshyam Patil,<br>Bandrekarwadi, Kakichi Chawl No.7,<br>Room No.4, Jogeshwari (E),<br>Mumbai – 400 060.                                 | 516 of 2016  |
| 8       | Dinanath Sambhaji Pednekar,<br>Bldg. No.145, Room No.4388,<br>Kannamwar Nagar, Vikhroli (E),<br>Mumbai – 400 086.                                    | 2358 of 2015 |
| 9       | Ibrahim Ramzan Momin,                                                                                                                                | 2386 of 2015 |

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|    | 53/14, Janata Co-op. Hsg. Society, Shivshrusti, Nehru Nagar, Kurla (E), Mumbai – 400 024.                                              |              |
| 10 | Mohanlal Bhagwandas Shirwayya, 8/B, Ashoka Apartment, M.P Road, Mulund (W), Mumbai – 400 075.                                          | 2449 of 2015 |
| 11 | Marshall Benjamin D'Souza, 350/A, Dhuru Apartment, B-Wing, 1 <sup>st</sup> floor, R.No.6, Veer Savarkar Marg, Dadar, Mumbai – 400 028. | 2487 of 2015 |
| 12 | Harilal Dajibhai Patel, 12/255, Samudra Darshan CHS, J.P. Road, D.N.Nagar, Opp. Jain Temple, Andheri (W), Mumbai-53.                   | 2537 of 2015 |
| 13 | Shantaram Nagoji Patade, Shantiben CHSL, Bldg. No.C/204, Azad Nagar No.1, Nr.Castle Mill, Thane (W), Mumbai – 400 601.                 | 2539 of 2015 |
| 14 | Ravindra P. Mohadkar, 1114/24, Gajanan Society, Ganesh Khind Road, Shivaji nagar, Pune.                                                | 2553 of 2015 |
| 15 | Smt.Suchita Kisan Dashetye, Room No.6, Bhagyodaya Society, Kokan Nagar, Bhandup (W), Mumbai – 400 028.                                 | 2555 of 2015 |
| 16 | Prakash Bhaskar Thakur, Dipti Dham Coop. Hsg.Society Ltd., Flat No.2, Nahur Village, Mulund (W), Mumbai – 400 080.                     | 2556 of 2015 |
| 17 | Satnamsingh Wazirsingh Bamra, Room No.8, Raghunath Shukla Chawl, J. P. Road, Jawahar Nagar, Khar (E), Mumbai – 400 051.                | 2559 of 2015 |
| 18 | Digambar K. Kasle, Room No.7, Gawade Chawl, Kalinkar Wadi, Azad Road, Vile Parle (E),                                                  | 2568 of 2015 |

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|    | Mumbai – 400 075.                                                                                                            |              |
| 19 | Kisan Gopichand Bhatkar,<br>R/at Sanmansingh Chawl, Sharda<br>Niwas, C-24, Anand Nagar, Bhandup<br>(W), Mumbai 400 078.      | 2577 of 2015 |
| 20 | Nitin Sadanand Karanjekar,<br>Tritiya Apt., C-402, Sector 6, Plot-6,<br>Kamothe, Navi Mumbai – 410 209.                      | 2627 of 2015 |
| 21 | Somappa V. Salian,<br>Chandrapal Chawl, Room No.3,<br>Joseph Patel Wadi, Yarri Road,<br>Andheri (W), Mumbai – 400 061.       | 2651 of 2015 |
| 22 | Ranjeet Kaur Dharamsingh<br>Bhemgura,<br>A/502, Unshanagar, Bhandup (W),<br>Mumbai – 400 078.                                | 2669 of 2015 |
| 23 | Chanan Singh,<br>Bldg. No.274, NL-6, Nerul,<br>Navi Mumbai.                                                                  | 2673 of 2015 |
| 24 | Surenderkaur Udham Singh Saini,<br>Bldg.No.49, R.No.1582,<br>Matruchhaya CHS, Vikhroli (E),<br>Mumbai – 400 083.             | 2674 of 2015 |
| 25 | Lakhbirsingh Charansingh,<br>Ramnath Ashokwadi Chawl No.4,<br>R.No.8, Jawahar Nagar, Adarsh Lane,<br>Mumbai – 400 051.       | 2704 of 2015 |
| 26 | Ciriaco John Anthony D'Cunha,<br>Anthonio D'Souza School Bldg.,<br>Ground floor, Byculla (E), S.S.Marg,<br>Mumbai – 400 027. | 2710 of 2015 |
| 27 | Marian Gasper Dias,<br>11/605, Sardar Nagar, Sion<br>Koliwada, Mumbai – 400 022.                                             | 2714 of 2015 |
| 28 | Abaji Hari Dalvi,                                                                                                            | 2715 of 2015 |

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|    | 17/Kudal Coop. Hsg. Society, Ganesh Nagar, S.S.Road, Bhandup, Mumbai – 400 078.                                                |              |
| 29 | Ashok Sudam Bhandare,<br>Narmada Niwas, Chawl No.1,<br>R.No.8, Shivaji Nagar, Sanmarsingh Road, Bhandup (W), Mumbai-78.        | 2723 of 2015 |
| 30 | Assumption Norbert Fernandes,<br>House No.T/130-A, Azad Road,<br>Juhu Koliwada, Santacruz (W),<br>Mumbai – 400 049.            | 2760 of 2015 |
| 31 | Balkrishna Gopal Bhogale,<br>R.No.2, Kesar Niwas, Shivaji Nagar,<br>Tembhipada Road, Bhandup (W),<br>Thane 400 078.            | 2846 of 2015 |
| 32 | Dattaram Ramchandra Parab,<br>Bldg. No.96, Room No.2894,<br>Pant Nagar, Ghatkopar (E), Mumbai<br>– 400 075.                    | 2848 of 2015 |
| 33 | Hilario Joseph Rodrigues,<br>A/31, Vadia Estate, Bail Bazar,<br>Kurla (W), Mumbai – 400 070.                                   | 2900 of 2015 |
| 34 | Ramesh Bhalchandra Joshi,<br>1, Uttam Society, Block No.24,<br>Mithbunder Road, Thane (E).                                     | 2918 of 2015 |
| 35 | Madhukar Shamrao Tanak,<br>17/14. Shree Everest CHSL,<br>Pandir Dindayal Rd., Vishnu Nagar,<br>Dombivali (W), Thane – 421 202. | 2970 of 2015 |
| 36 | M.B. Tikhe,<br>Ahirwad Niwas, Chawl No.2, Nehru<br>Nagar, Kanjurmarg (E), Mumbai-42.                                           | 2973 of 2015 |
| 37 | Sanjivani laxman Mundhe,<br>B/14, Jay Jamuna Hsg. Society,<br>Sarsat Colony, Pendse Nagar,<br>Dombivali (E), Thane 421 201.    | 3017 of 2015 |

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| 38 | Nirmala Shankar Myakal,<br>Shriji Vihar CHSL, C-Wing, Flat<br>No.002, Ground floor, Vasant Nagari,<br>Vasai (East), Thane.   | 3057 of 2015 |
| 39 | Noel Joachim Gonsalves,<br>Room No.2/35, Bachali Bldg.,<br>Dholkar Street, Dockyard Road,<br>Mazdaon, Mumbai – 400 010.      | 3093 of 2015 |
| 40 | Vyankatesh Pochetti Myakal,<br>Bldg. No.104, 1 <sup>st</sup> floor, Kamathi Pura,<br>5 <sup>th</sup> Lane, Mumbai – 400 008. | 3094 of 2015 |
| 41 | Dattaram Krishna Mahadeshwar,<br>Vyankatesh Sadan, R.No.1,<br>Bhattipada Road, Mumbai – 78.                                  | 3135 of 2015 |

v/s

1. M/s.Indian Tools Manufacturers  
(A Divn. Of Zenith (India) Ltd.),  
Office at: Dalamal House, 1<sup>st</sup> floor,  
206, Jamnalal Bajaj Marg,  
Nariman Point, Mumbai – 400 021'

2. Birla Precision Technologies Ltd.,  
Office at : B-15, M.I.D.C. Industrial  
Area, Waluj, Aurangabad.

...Respondents in all  
the above petitions.

Mr.Shailesh Kashinath More for the petitioners in all petitions.

Mr.Makrand S. Karnik i/by Piyush Uday Raje for the respondents in  
all petitions.

**AND**

**WRIT PETITION NO.132 OF 2016**

**ALONG WITH**

**Writ Petition (St) Nos.134, 136, 137, 138, 145, 146,  
148, 149, 150, 151, 152, 153, 155, 156, 157, 158, 159,**

**160, 161, 162, 163, 165, 176 , all of 2016, Writ Petition  
Nos.251, 254, 256, 263 and 267, all of 2016.**

1. M/s.Indian Tools Manufacturers  
(A Divn. Of Zenith (India) Ltd.),  
Office at: Dalamal House, 1<sup>st</sup> floor,  
206, Jamnalal Bajaj Marg,  
Nariman Point, Mumbai – 400 021'

2. Birla Precision Technologies Ltd.,  
Office at : B-15, M.I.D.C. Industrial  
Area, Waluj, Aurangabad.

... Petitioners in all  
the above petitions.

v/s

| <b>Sr.No.</b> | <b>Name of the Respondent</b>                                                                                             | <b>In W.P. (St.) No.</b> |
|---------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1             | Kisan Gopichand Bhatkar,<br>Sahmansingh Chawl, Sharda Niwas<br>C-24,<br>Anand Nagar, Bhandup (W),<br>Mumbai-400 078.      | 132 of 2016              |
| 2             | John Anthonio D'Cunha,<br>Anthonio D'Souza School Bldg.,<br>Ground floor, Byculla (E), S.S. Marg,<br>Mumbai – 400 027.    | 134 of 2016              |
| 3             | Anand Raghvendra Raddi,<br>Kohasita CSH Ltd., Saraswati Colony,<br>Opp. Panchayat Bawdi, Dombivli(E),<br>Thane – 421 201. | 136 of 2016              |
| 4             | Abaji Hari Dalvi,<br>17/Kudal CHSL, Ganesh Nagar, S.S.<br>Road,<br>Bhandup, Mumbai – 400 078.                             | 137 of 2016              |
| 5             | Digambar K. Kasle,<br>R.No.7, Gawade Chawl, Kalinkar<br>Wadi,                                                             | 138 of 2016              |

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|    | Vile Parle (E), Mumbai – 400 057.                                                                                                                                                                         |             |
| 6  | Lakhbirsingh Charansingh,<br>Ramnath Ashokwadi Chawl No.4,<br>R.No.8, Jawahar Nagar, Adarsh Lane,<br>Khar (E), Mumbai – 51.                                                                               | 145 of 2016 |
| 7  | Ibrahim Ramzan Momin,<br>53/14, Janata CHS Ltd., Shivshrusti,<br>Nehru Nagar, Kurla (E), Mumbai-24.                                                                                                       | 146 of 2016 |
| 8  | Ramdas Vasudev Jalvi,<br>Room No.18, Kadam Niwas,<br>Shivaji Nagar, Opp.Navjivan High<br>School, Bhandup (W), Mumbai-78.                                                                                  | 148 of 2016 |
| 9  | Chanan Singh,<br>Bldg. No.274, NL-6, Nerul,<br>Navi Mumbai.                                                                                                                                               | 149 of 2016 |
| 10 | Wazir Singh Balwant Singh Bamra<br>(Died), through his L.R.<br>Mr.Satnam Singh Wazir Singh Bamra<br>(son),Room No.8, Raghunath Shukla<br>Chawl, J. P. Road, Jawahar Nagar,<br>Khar (E), Mumbai – 400 051. | 150 of 2016 |
| 11 | Kisan Ganpat Dashetye (died)<br>Through L.R.<br>Smt.Suchita Kisan Dashetye (widow)<br>R.No.6, Bhagyodaya Society, Kokan<br>Nagar, Bhandup (W), Mumbai-78.                                                 | 151 of 2016 |
| 12 | Harilal Dajibhai Patel,<br>12/255, Samudra Darshan CHS, J.P.<br>Road, D.N.Nagar, Opp. Jain Temple,<br>Andheri (W), Mumbai – 400 053.                                                                      | 152 of 2016 |
| 13 | Ramesh Bhalchandra Joshi,<br>1, Uttam Society, Block No.24,<br>Mithbunder Road, Thane (E).                                                                                                                | 153 of 2016 |
| 14 | Shantaram Nagoji Patade,<br>Shantiban CHSL, Bldg.No.C/204,<br>Azad nagar No.1, Near Castle Mill,                                                                                                          | 155 of 2016 |

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|    | Thane (W), Thane – 400 601.                                                                                                                                                               |             |
| 15 | Udhamsingh Daulatsingh Saini (died) through his L.R. Smt.Surenderkaur Udamsingh Daulatsingh Saini (widow), Bldg. No.49, R. No.1582, Matruchhaya CHS, Vikhroli (E), Mumbai – 400 083.      | 156 of 2016 |
| 16 | Dattaram Ramchandra Parab, Bldg. No.96, R.No.2894, Pant Nagar, Ghatkopar (E), Mumbai – 400 075.                                                                                           | 157 of 2016 |
| 17 | Benjamin Simon D'Souza (died) through L.Rs.<br>Mr.Marshall Benjamin D'Souza (son), 350/A, Dhuru Apt., B-Wing, 1 <sup>st</sup> flr., R.No.6, Veer Savarkar Marg, Dadar, Mumkbai – 400 028. | 158 of 2016 |
| 18 | Hilario Joseph Rodrigues, A/31, Vadia Estate, Bailbazar, Kurla (W), Mumbai – 70.                                                                                                          | 159 of 2016 |
| 19 | Ravindra R. Mohadkar<br>1114/24, Gajanan Society, Ganesh Khind Road, Shivaji Nagar, Pune.                                                                                                 | 160 of 2016 |
| 20 | Laxman Santuram Mundhe, B-14, Jai Jamuna Society, Vallababhai Patel Road, Opp. Achalkar Bldg., Dombivali (E), Mumbai – 421 201.                                                           | 161 of 2016 |
| 21 | Norbert Francis Fernandes (died), through L.R.Smt.Assumption Norbert Fernandes (widow), House No.T/130-A, Azad Nagar, Juhu Koli wada, Santacruz (W), Mumbai - 49.                         | 162 of 2016 |
| 22 | Marian Gasper Dias, 11/605, Sardar Nagar, Sion Koliwada, Mumbai – 400 022.                                                                                                                | 163 of 2016 |
| 23 | Dattaram Krishna Mahadeshwar, Vyankatesh Sadan, Room No.1,                                                                                                                                | 165 of 2016 |

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|    | Bhattipada Road, Bhandup (W),<br>Mumbai – 400 078.                                                                                                                                          |             |
| 24 | Sadanand Appaji Karanjekar (died)<br>through L.R.<br>Mr.Nitin Sadanand Karanjekar (son)<br>Tritiya Apartment, C-402, Sector-6,<br>Plot No.6, Kamothe, Navi Mumbai.                          | 176 of 2016 |
| 25 | Aumkarsingh Lalsingh Saini (died)<br>through L.R. Smt.Savitridevi<br>Aumkarsingh Saini (widow), Behind<br>Barrack No.728, Hospital Area,<br>Punjabi Colony, Ulhasnagar No.3,<br>Dist.Thane. | 251 of 2016 |
| 26 | Sudam Kisan Bhandare (died)<br>through L.R. Mr.Ashok Sudam<br>Bhandare (son), Narmada Nivas,<br>Chawl No.1, R.No.8, Shivaji Nagar,<br>Sanmansingh Road, Bhandup (W),<br>Mumbai – 400 078.   | 254 of 2016 |
| 27 | Somappa V. Salian,<br>Chandrapal Chawl, Room No.3,<br>Josep Patel Wadi, Yarri Road,<br>Andheri (W), Mumbai – 400 061.                                                                       | 256 of 2016 |
| 28 | Dharam Singh I. Bhengura (died),<br>through L.R. Smt.Ranjeet Kaur<br>Dharam Singh Bhengura (widow),<br>A/502, Unshanagar, Bhandup (W),<br>Mumbai – 400 078.                                 | 263 of 2016 |
| 29 | Dinanath Sambhaji Pednekar,<br>Bldg. No.145, R.No.4388,<br>Kannamwar Nagar, Vikhroli (W),<br>Mumbai – 400 086.                                                                              | 267 of 2016 |

Mr.Makrand S. Karnik i/by Piyush Uday Raje for the petitioners in all petitions.

Mr.Shailesh Kashinath More for the respondents in all petitions.

***CORAM: N.M. JAMDAR, J.***

***DATED : 29 FEBRUARY 2016***

***ORAL ORDER:***

This group of matters arise from the order passed by the Labour Court, Mumbai, disposing of the applications filed under Section 33-C(2) of the Industrial Disputes Act, 1947. By order dated 8 December 2015, the parties were put to notice that Court will take up the matters for final disposal. Accordingly the matters are taken up for final disposal.

2 The first group of petitions filed by the Applicant-workmen consists of the following writ petitions:

Writ Petition Nos.2335 of 2015, Writ Petition Nos.121, 427, 433, 463, 479 and 516, all of 2016; Writ Petition Nos.2358, 2386, 2449, 2487, 2537, 2539, 2553, 2555, 2556, 2559, 2568, 2577, 2627, 2651, 2669, 2673, 2674, 2704, 2710, 2714, 2715, 2723, 2760, 2846, 2848, 2900, 2918, 2970, 2973, 3017, 3057, 3093, 3094 and 3135, all of 2015.

3 The second group is filed by the employer, which consists of the following writ petitions :

Writ Petition No.121 of 2016, Writ Petition (St) Nos.132, 134, 136, 137, 138, 145, 146, 148, 149, 150, 151, 152, 153, 155, 156, 157, 158, 159, 160, 161, 162, 163, 165, 176 of 2016, Writ Petition Nos.251, 254, 256, 263 and 267, all of 2016.

4 The Labour Court, Mumbai, disposed of the applications by the impugned order dated 9 June 2015 as under :

*'1. Application is partly allowed with proportionate cost of Rs.2,000/- (Rupees Two thousand only).*

*2. Opponents jointly and severally do pay an amount of Rs.14,501.41 (Rupees Fourteen thousand five hundred one and forty one paise only) towards closure compensation and lock out wages to the applicant along with interest @ Rs.6% p.a. From the date of closure order i.e. 27/05/1992 till realization of entire amount.*

*3. Issue recovery certificate accordingly.'*

5 The Workmen, who had filed the applications, are aggrieved by this order because their claim for earned wages for the period between 18 October 1988 to 27 May 1992, has been denied. The Employer is aggrieved by the direction to pay the closure compensation along with interest at the rate of 6% per annum from 27 May 1992. The impugned orders arise from the following factual backdrop.

6 The Employer, Indian Tools Manufacturers Undertaking had a unit at Sion, Mumbai. At the unit at Sion, work of manufacturing high speed cutting tools, drills, cutters and tapers used to be conducted. On 11 December 1988, the workmen resorted to violence, looting, destruction of property at the Unit. Managerial and administrative personnel were assaulted. Earlier also, the

workmen had taken the law in their hands. An atmosphere of terror prevailed. There was large scale damage to the property. Personnel manager was stabbed. All this led work coming to a complete standstill.

7 The Employer moved an application under Section 25-O of the Industrial Disputes Act, 1947 (the Act) requesting for sanction of closure of the establishment at Sion and for terminating the services of 726 workmen. Such applications were made for similar purpose earlier in the year 1991 and 1992 which were withdrawn. The two unions operating in the said Unit, i.e. Maharashtra Shramik Sena and General Kamgar Union (Red flag) did not contest the withdrawals. The third application was heard on various dates from 30 April 1992 to May 1992. The General Kamgar Union filed Complaint (ULP) No.1250 of 1988 had in respect of lock out and the complaint was dismissed for non-prosecution.

8 The application under Section 25-O of the Act was heard by the Secretary to the Government. After considering the financial position, pendency of proceedings before the B.I.F.R., instances of violence and destruction of property, and the reasons stated for closure, the Secretary, by order dated 27 May 1992 allowed the application under Section 25-O of the Industrial Disputes Act and permitted to close down the unit at Sion. This order was not challenged by the applicant-Workmen.

9 A settlement was arrived at between the General Kamgar Union (Red Flag) and the Employer on 16 March 1995 wherein it was agreed that the Petitioner will pay dues to the workmen in full and final settlement. The applicant-Workmen also collected their dues in the year 1995 and executed receipts thereof.

10 The applicant-Workmen, 15 years thereafter, filed applications under Section 33-C(2) of the Act, on 27 December 2010. It was contended by the workmen that the order passed under Section 25-O for closure was not adhered to and the workmen were not party to the settlement and since the closure was in breach of Section 25-O, the workmen were entitled to their dues along with interest at the rate of 12% per annum. It was contended that they approached various authorities and since their demands were not met, they filed the applications in the year 2010. The application was resisted by the Employer by filing a written statement. It was stated that, after the closure of Indian Tools Manufacturers at Sion, which was one of the undertaking of Zenith (India) Limited, has been merged with Birla Precision Technologies Limited, a public limited Company. It was stated that the scheme was sanctioned by the Court. It was further stated that, after the order passed under Section 25-O, a settlement was arrived at with the Union and all the applicant-Workmen collected their dues. It was stated that the applications were belatedly filed and suffered from laches and delay. Parties led their oral evidence and filed

documentary evidence.

11 The Labour Court, framed issues and considered the evidence and the arguments. It held that the applications were maintainable, the workmen were entitled to the amount of closure compensation as they were not signatories to the settlement, however, declined to grant the earned wages for the period between 18 October 1988 to 27 May 1992, as the work in the Company was closed down due to violence by the workmen. The Labour Court considered the last drawn wages and worked out the closure compensation. The Labour Court also directed the employer to pay interest at the rate of 6% per annum. Accordingly, the applications were disposed of by the impugned orders dated 9 June 2015.

12 I have heard Mr.Shailesh More, learned advocate for the workmen and Mr.Makarand Karnik, learned advocate for the Employer.

13 Mr.More, learned advocate for the workmen submitted that there was a breach of Section 25-O of the Industrial Disputes Act as the order under Section 25-O is operative in law only for a period of one year, in the present case from 1992 to 1993, and the amounts were offered to the Applicant-workmen in the year 1995. He submitted that the settlement relied upon by the employer with the Union (Red Flag), which was a un-recognized union, is not binding on the Applicant-workmen, as they were never members of that union. He submitted that, in absence of any material produced

by the Employer, the Labour Court has rightly granted closure compensation and lock-out wages to the workmen. He submitted that since the closure was held illegal by the Labour Court, the Labour Court could not have declined to grant earned wages to the workmen on the principal of 'no work no pay'. He submitted that it is a statutory right of the workmen to receive the said amount which could not be taken away. Mr. More relied upon the decision of the Apex Court in the case of *S.G. Chemicals and Dyes Trading Employees Union v/s S.G. Chemical and Dyes Trading Limited*<sup>1</sup>, in support of his contention. He also relied upon the decision in the case of *Nityanand M. Joshi & anr. v/s The L.I.C. of India*<sup>2</sup> and in the case of the *Central Bank of India Ltd. v/s P.S. Rajgopalan*<sup>3</sup>, to contend that there is no limitation prescribed under Section 33-C(2) of the Act. Mr. More also relied upon the decision of the learned Single Judge of this Court in *Kamala Mills Ltd. v/s Dilip Kumar Damini*<sup>4</sup>, to justify the grant of interest in favour of the employees.

14 On the other hand, Mr. Karnik, learned advocate for the Employer submitted that the concerned workmen had accepted the amounts in full and final settlement in the year 1995 itself and has executed receipts thereof. He submitted that there was no breach of Section 25-O as alleged and due to violence committed by the workmen, the unit had to be closed down. He contended that the

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1 1986 LLJ 490.

2 A.I.R. 1970 SC 209.

3 1963 SCR 140.

4 2014 (4) Mh.L.J. 83.

applications filed were hopelessly belated. Mr.Karnik also submitted that since the concerned workmen had moved the Court after 18 years without any explanation, saddling the employer with interest was not justified.

15 Two claims have been made by the workmen. First is earned wages from 18 October 1988 to 27 May 1992, which is refused. Second is regarding closure compensation and the lock out wages, which is granted by the Labour Court.

16 First the claim of the Applicant-workmen of earned wages from the period 18 October 1988 to 27 May 1992. This relief then claimed by invoking writ jurisdiction of the Court. The claim of the workmen arose in the year 1992. They received certain amounts in the year 1995. The applications have been filed in the year 2010. The applications have been filed after 18 years and the entitlement was sought to be asserted after a period of 18 years by filing an application under Section 33-C(2) of the Act. In the meanwhile, Indian Tools Manufacturers Ltd. has ceased its operations. It has now been emerged into an another Company and almost two decades have gone by before the workmen decided that they will approach the Court of law. The Constitution Bench in the case of *Central bank of India*<sup>3</sup> has held that the Act not provided any limitation for filing an application under Section 23(1)(2). However, it is also equally settled law that when the Act does not provide limitation period, the party must approach the Court of law

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3 1963 SCR 140.

within reasonable period. The fact that no limitation is provided, does not mean that the applicants can walk into the Court at any time they please, in this case, almost after two decades. With the explosion of dockets in the courts, it is necessary to be vigilant in weeding out belated and stale claims. If such claims are entertained by the Courts only on the ground that no limitation is provided, then the Courts will have little time to address to more pressing and urgent disputes.

17 The workmen have approached this Court in its equity jurisdiction claiming a relief which has been denied by the Labour Court. This Court, therefore, is required to take into consideration the gross laches on the part of the Applicant-workmen in approaching the Labour Court. The only reason given by the Applicant-workmen in their applications is that the applicants were running from pillar to post and their grievance was not redressed. It is stated that they approached the concerned Minister and made various representations. This cannot be an explanation for such gross delay. Firstly, there was no need to go to various authorities as they could have approached the court. Even assuming all that is stated is accepted, it still does not explain why the applicant workmen could not approach the court for 18 years. Even assuming latitude is to be granted to the applicants being workmen, still laches of 18 years cannot be justified. With this position in mind, the grant of closure compensation in favour of the workmen and non-grant of earned wages will have to be considered.

18 The claim of the workmen for earned wages is for the period from 18 October 1988 to 27 May 1992. During this period, the unit was closed due to the violence committed by the workmen. Unit could not be operated by the atmosphere of terror created by the workmen. In such situation, when admittedly no work took place, the approach of the Labour Court in not granting the earned wages to the workmen for this period, cannot be stated to be perverse. Having approached the Labour Court after 18 years, and now after 24 years, it is not possible to ascertain whether the applicant-workmen reported to work or otherwise between 1988 and 1992. That violence and destruction of property took place in the Unit is an admitted position. Therefore, the claim made for grant of wages during this period was rightly refused. It is the contention of Mr. More that since the closure was not legal, automatically the concerned workmen are entitled to wages for this period. As stated above, even assuming this position to be correct, the workmen ought to have approached the Court of law for asserting this right in their favour within a reasonable period.

19 Now to consider the grievance of the employer. According to Mr. Karnik, learned counsel for the Employer, the grant of closure compensation was not correct. He strongly relied upon the settlement between the Union (Red Flag) and the Employer for that purpose. According to him, the closure compensation was paid and accepted by the applicant workmen in full and final settlement and,

therefore, there is no breach of Section 25-O of the Act. This submission cannot be accepted. The Labour Court has rightly observed that nothing was shown by the Employer that the applicant-workmen were members of the Union (Red Flag). Even today, nothing is shown that either the settlement was signed by the Applicant-workmen or they were members of the union Red Flag. The workmen may have accepted the amounts in the year 1995, but that was beyond the period of one year. The amount was after the settlement with the Union (Red Flag). It was then contended by Mr.Karnik that whether the workmen/applicants were members of the Union (Red Flag) or not, being a disputed question, could not have been considered under Section 33-C(2) of the Act. This submission cannot be accepted. The Employer failed to show that either the applicant workmen signed the settlement or that they were members of the Union (Red Flag). Once this was not demonstrated, the issue did not require any debate. In the circumstances, in the writ jurisdiction, I am not inclined to take away closure compensation and lock out wages granted to the applicant-workmen by the Labour Court, which ranges approximately from Rs.10,000/- to Rs.15,000/-. This would have been the amount received by the applicant workmen had they made the applications immediately in the year 1992.

20 Now turning to the serious grievance made by Mr.Karnik that the employer is needlessly saddled with interest at the rate of 6% per annum. It was the contention of Mr.More that the interest was

rightly granted and it was granted following the decision of this Court in the case of *Kamala Mills*. As stated earlier, nothing stopped the Applicant-workmen from filing an application as they had done in the year 2010, in the year 1993. For the total negligence on the part of the Applicant-workmen, there is no reason why the Employer ought to have been saddled with interest. The employer was entitled to presume that having accepted some amount in the year 1995 by giving a receipt of having received a full and final settlement, the matter had come to an end. It is after the application was filed in the year 2010 that the matter was contested and reopened. In the case of *Kamala Mills* relied upon by Mr. More, the facts were entirely different. In that case, the workmen had approached the Apex Court by way of contempt petition in the year 2005 seeking implementation of the order passed in the year 1994, delay in filing the contempt was condoned and liberty was granted to the workmen to seek appropriate remedy before the appropriate forum and after the said liberty was granted, the workmen therein had approached the Labour Court and the Court, in the circumstances, found that there was no delay. In the case of *Kamala Mills*, the workmen were actively pursuing their rights and remedies. The Labour Court did not consider this factual position in the case of *Kamala Mills* and straight away saddled the employer with interest at the rate of 6% per annum. In my opinion, therefore, the Labour Court erred in directing the employer to pay interest. The Employer was justified in entertaining the belief that having executed the receipts for full and

final settlement, the claim of the workmen was satisfied. That, in the year 2015, the Labour Court found that the workmen were entitled to closure compensation, is not a ground to grant interest against the Employer.

21 In the equity jurisdiction, I am not inclined to disturb grant of a monetary relief in favour of the Applicant-Workmen on the ground of laches, but will have to take into consideration this factor if the workmen seek more reliefs and grant of interest. In conclusion, therefore, I am not inclined to disturb the direction given by the Labour Court to the employer to pay closure compensation and the lock out wages, however, the grant of 6% interest from 1992 is unjustified and will have to be quashed and set aside. The claim of the workmen for earned wages between 18 October 1988 to 27 May 1992 has been rightly refused by the Labour Court.

22 As rightly contended by Mr.Karnik, the Applicant-Workmen have received the amount like anyone else in the year 1995, and have filed the applications only by way of taking a chance to see if any higher amount can be secured.

23 Accordingly, all the petitions are disposed of by the following order :

**O R D E R**

(I) The impugned direction to the Employer to pay an amount of closure compensation and lock out wages to the Applicant- Workmen, is sustained. The claim of the Applicant- Workmen for earned wages for the period from 18 October 1988 to 27 May 1992, is rejected.

(II) The direction to the Employer to pay interest at the rate of 6% per annum from 27 May 1992, is quashed and set aside.

(III) The Employer, in its petitions has deposited the amount directed by the Labour Court towards closure compensation and lock out wages, which amounts the Applicant-workmen will be entitled to withdraw.

25 No costs.

*( N. M. JAMDAR, J. )*