

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1018 OF 2015

(Sheikh Ahmed Sheikh Gaffur & Anr. vs. State of Maharashtra, Department of Cooperation thr.
its Secretary & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
JULY 19, 2016.**

Heard Shri Manoj Rajan Pillai, learned counsel for the petitioners and Ms. S.Z. Haider, learned AGP for respondent Nos. 1 & 2. Nobody appears for respondent No. 3.

Respondent No. 4 has purchased the industry from Respondent No. 3 in liquidation proceedings. Petition against Respondent No. 4 is dismissed by this Court in default on 01.04.2016.

The petitioners claim the outstanding lay off compensation from Respondent Nos. 1 to 3 and for that purpose question the order dated 20.12.2014 passed by Respondent No. 2.

The record shows that Respondent No. 3 – Liquidator has on 25.04.2014 passed an order under Section 105(e) of the Maharashtra Cooperative Societies Act, 1960, and therein after examining the claim of labourers for total amount of Rs.225.00 lakh, on the strength of records of employer for the period of 10 months commencing from December 1991 till September 1992, on an average of 50% salary, lay off compensation of Rs.43,34,745/-, appears to

have been accepted. This acceptance was subject to clearance by Respondent No. 2. The amount was to be paid through sale consideration of the properties of the employer.

When the matter was looked into by Respondent No. 2 on 20.12.2014, he has rejected this claim observing that the Liquidator has in his letter dated 10.10.2014 informed that as per Agreement dated 12.09.1992 and 10.10.1992, no amount is payable to the workers.

Obviously, the statutory requirement of paying lay off compensation has been overlooked and an earlier opinion obtained by the Liquidator from the District Government Pleader on 20.02.2014 has also been ignored. In any case, the petitioners have not been given an opportunity of hearing before taking this decision.

In this situation, we quash and set aside the order dated 20.12.2014.

The petitioners are directed to appear before Respondent No. 2 for fresh consideration of the controversy on 22.08.2016. On that date, Respondent No. 2 shall hear the petitioners and Respondent No. 3 and take further suitable decision on the entitlement of the petitioners, in accordance with law, within a period of four weeks therefrom.

With these directions, writ petition is partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

C E R T I F I C A T E

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

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