

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2751 OF 2003

Baljindarsingh s/o Kundansingh,
Age : 37 years, Occu. at present Nil,
R/o Zambad Estate, New Shreya Nagar,
Tapi Apartment, Ist Floor,
Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai
2. The Collector and District
Magistrate, Collectorate,
Aurangabad, Dist. Aurangabad
3. Tahsildar and Taluka Magistrate,
Tahsil Office, in the campus of
Old Collectorate, Aurangabad
4. The Ellora Steels Ltd.,
through its Manager,
E-26, 27, M.I.D.C. Area,
Chikalathana, Aurangabad
5. Shri Narendrakumar s/o Raghunandlal
Gupta, Age : 40 yrs., Occu. Director
(Ellora Steels Ltd),
Ellora Steel Ltd.,
R/o 58, 59, Sector N-1, CIDCO,
Aurangabad
6. Shri Harshvardhan Gupta,
Age : 40 years, Occu.
Director (Elllora Steels Ltd.),
R/o Aurangabad
7. Debt Recovery Tribunal,
LIC Building, Cannaught Garden,
Near CIDCO Office, Aurangabad

8. Bank of Maharashtra,
Kranti Chowk, Jalna Road,
Aurangabad

RESPONDENTS

Mr. A.G. Ambetkar, Advocate for the petitioner
Mr. P.K. Lakhotiya, A.G.P. for the respondent/State
Mr. A.D. Kasliwal, Advocate for respondent No.8

**CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.**

DATE : 5th December, 2017

ORAL JUDGMENT :

Heard learned counsel appearing for the parties.

2. Petitioner, an erstwhile employee of respondent No.4 Company, had been before Labour Court, Aurangabad in Application (I.D.) No.16 of 1997. The Labour Court, under its order dated 8th March, 2003, had directed respondent No.4 to pay to petitioner an amount of Rs.78,750/- with interest at the rate of 9% per annum from the date of application till realization of the amount. After aforesaid order of the Labour Court, Labour Commissioner, had been approached for implementation of the Award. The Commissioner had issued certificate dated 25th June, 2002, as per the provisions of Section 33-C (1) and (4) of the Industrial Disputes

Act, 1947, requesting the Collector, Aurangabad to recover the amount under the Award. Accordingly, it was expected that said amount would be recovered by the Collector. However, no steps were taken by the office of the Collector and as such, this petition has been moved.

3. It appears that as referred to in reply filed on behalf of the State that attempts were made to recover the amount under the Award by sending communication which had not been fruitful. It further appears that the Tahsildar-Respondent No.3, in his reply, has referred to that the Company had gone in liquidation and had been a BIFR Company. It further appears that some proceedings for recovery of the dues had been initiated by the creditors before the Debt Recovery Tribunal ("DRT", for short) and some amounts were recovered in those proceedings. Out of the said amounts, pursuant to the orders of this Court dated 8th February, 2004, an amount of Rs.1,28,362/-, lying with the DRT, had been called to this Court and accordingly, said amount has been deposited in this Court, which is lying with the Registry of this Court since then.

4. Learned counsel for respondent No.8 contends that the amount has been recovered in the proceedings by

the creditors before the DRT and as such, the amount would be required to be paid in accordance with the legal position as may appear from the relevant provisions of law. Although this has been so submitted on behalf of the respondents, undisputed position is that petitioner has been awarded sum of Rs.78,750/- with interest thereon at the rate of 9% per annum and that amount is due to the petitioner. Further, during pendency of this petition, petitioner had moved Civil Application No.3224 of 2004 for withdrawal of sum of Rs.93,565/-. Said application was rejected by this Court vide order dated 21st March, 2005, observing that the relief claimed in said civil application would tantamount to the final relief in writ petition.

5. In the circumstances, looking at that petitioner had been claiming the amount pursuant to the certificate issued in his favour and that the amount is towards claim of a workman and is not huge. While amount is deposited in this Court for a pretty long time without being objected to and/or claimed by creditors of respondent No.4, we deem it appropriate that without dragging petitioner any further and/or driving him to other fora, it would be expedient that writ petition is allowed with the following order :-

ORDER

(i) We direct that from the amount deposited in this Court the petitioner be allowed to withdraw an amount of Rs.93,565/- alongwith interest accrued thereon in fixed deposit from the date of deposit of said amount in this Court.

(ii) Rest of the amount be sent back to the office of the Debt Recovery Tribunal, Aurangabad.

(iii) Rule is made absolute in aforesaid terms.

[SANGITRAO S. PATIL]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

npj/WP2751-2003