

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8480 OF 2014
(Chief Executive Officer and another Vs. Ramesh Shivaji Pawar)

Mr.S.N.Rodge, Advocate for the petitioners.
Respondent absent.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 09/02/2017

PER COURT :

1. Despite service of court notice, the sole respondent has neither appeared through an Advocate nor in person.
2. The petitioners have challenged the order dated 04/03/2010, by which Misc.Appl.(IDA) No.9/2005 has been rejected.
3. I have considered the submissions of the learned Advocate for the petitioners.
4. The respondent was before the Labour Court in Ref.(IDA) No.142/1994. Though the Advocate for the petitioners participated in the proceedings and the petitioners were represented, though written statement was also filed, as costs of Rs.250/- were not paid, the written statement was not taken on record. Finally by award dated 12/01/2000, the reference was allowed granting reinstatement with

continuity and back wages for a particular period. The said award, therefore, cannot be said to be an ex-parte award.

5. The petitioners preferred WP No.2793/2003 for challenging the award before this Court. By order dated 31/03/2004, the writ petition was rejected summarily. The award has, therefore, attained finality as the petitioners have not approached the Hon'ble Apex Court.

6. In so far as the impugned order is concerned, the award dated 12/01/2000 was published by the Labour Court on 21/03/2000. 30 days from the date of publication is the period when the Labour Court has jurisdiction over the matter. Considering the effect of Section 17 and 17-A of the I.D.Act r/w Rule 26 of the I.D.Bombay Rules, the award become executable and came into operation after 30 days from the date of publication.

7. By judgment of this Court delivered in Dnyaneshwar Anantrao Kulkarni Vs. Superintendent Engineer, Public Works Division, Osmanabad and others [2016(2) Mh.L.J.144], this Court has concluded that after 30 days of the date of publication, the Court delivering the award will become *functus-officio*. As a result, in this

case, the Labour Court became *functus officio* w.e.f. 21/04/2000.

8. The application for recalling of the award was filed by the petitioner on 30/05/2005 which is practically after 5 years and 1 month. Though the Labour Court, while delivering the impugned order, has treated the said application as being a Review Application, considering the law laid down in the case of Dnyaneshwar Anantrao Kulkarni (supra), the application for recalling of the award was not tenable. The impugned order to the extent of rejection of the application would therefore be sustainable.

9. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)