

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1634 OF 2016

Municipal Council, Osmanabad
Through its Chief Officer,
Rajesh Apparao Jadhav
Age 36 years, Occ. Service
R/o Municipal Quarter,
Osmanabad.

..Petitioner

Versus

1. The Assistant Commissioner
of Labour, Latur.

2. The General Secretary,
Marathwada Lal Bawata Union,
Office of Trade Union, Jalkot
Road, Udgir, Tq. & Dist.Latur.

..Respondents

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Advocate for Petitioner : Shri Naiknavare Ramesh V.
AGP for Respondent 1 : Shri Tiwari S.P.
Advocate for Respondent 2 : Shri Patil A.V. - Indrale

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 22, 2017

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ORAL JUDGMENT :-

1. Heard the learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. I have considered the submissions of the learned Advocates for the respective sides. Considering the order that I intend to pass, I am not required to advert to their entire submissions.

5. These litigating sides were before this Court in Writ Petition No.10487 of 2014. The order passed by respondent No.1 - Assistant Commissioner of Labour under Section 33C(1) was quashed and set aside and this Court issued the following directions below paragraph No.6 of the order dated 23.7.2015, which reads as under:-

“6. In the light of the above, this Writ Petition is partly allowed under the following directions:-

(a) The impugned order issuing three recovery certificates under Section 33(C)(1) of the Industrial Disputes Act, 1947 dated 20.08.2014 are quashed and set aside.

(b) The amount of Rs.12,50,000/ (Rupees Twelve Lacs Fifty Thousand) deposited in this Court by the Petitioner on 07.01.2015 by Demand Draft No.440058 shall stand remitted to Respondent No.1 Authority.

(c) The Registry of this Court is, accordingly, directed to deposit the said amount with Respondent No.1 (Assistant Commissioner of Labour, Latur) as expeditiously as possible and preferably within a period of THREE WEEKS from today.

(d) *The learned AGP shall furnish the Registry of this Court the bank account number of Respondent No.1/ Assistant Commissioner of Labour, Latur within ONE WEEK from today.*

(e) *Respondent No.2 Union is at liberty to withdraw 50% of the said amount deposited along with accrued interest from Respondent No.1 after properly identifying the beneficiaries and by providing necessary/ tangible identity proof and residence proof to the satisfaction of Respondent No.1.*

(f) *Respondent No.1/ Assistant Commissioner of Labour, Latur shall ensure that half of the amount which is allowed to be withdrawn shall actually be paid to the beneficiary employees.*

(g) *The litigating sides shall appear before Respondent No.1/Assistant Commissioner of Labour, Latur on 14.08.2015 at 11:00 am and thereafter, shall abide by the dates of hearing as may be posted by the concerned Authority.*

(h) *Respondent No.1 shall endeavour to decide these proceedings as expeditiously as possible and preferably on or before 31.10.2015.*

(i) *After the amounts are properly calculated, the Petitioner shall deposit the due amount before Respondent No.1 thereafter, to be paid to the beneficiary employees.”*

6. It is therefore, apparent that as this Court did not concur with amounts assessed by respondent No.1, the three recovery certificates

were set aside. In clause (i) of the order reproduced above, respondent No.1 was directed to properly calculate the amounts and pass an order. It appears from the impugned order that despite the said directions, respondent No.1 has not even referred to the claims of the employees, the rates at which the payments were due and has not calculated the amounts which are required to be recovered from the petitioner. In fact, he has presumed that the three recovery certificates quashed by this Court are still in existence. Neither of the litigating sides before this Court can point out from the impugned order that respondent No.1 has implemented the direction of this Court in paragraph No.6(i) reproduced above.

7. In the light of the same, this petition is allowed. The said proceedings are remitted to the respondent No.1 / authority on the following directions:-

(A) The litigating sides shall appear before respondent No.1 on 24.3.2017 at 3.00 PM.

(B) Considering the disobedience of the order of this Court, respondent No.1 shall pay an amount of Rs.10,000/- as costs to the respondent No.2 Union, which the nine claimants and the Union would withdraw in equal proportions.

(C) The said costs shall be paid from the salary of the respondent No.1 and will not be debited to the account of the

office of the Deputy Commissioner or the State Exchequer.

(D) The petitioner shall be represented through an authorised representative and preferably a senior office of the establishment and shall assist respondent No.1 in assessing the dues, if any.

(E) It is expected that respondent No.1 will decide the said issue under Section 33C(1) as expeditiously as possible and preferably within a period of three months from 24.3.2017.

8. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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