

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2391 OF 2016

Grampanchayat Gawadi and Anr. .. Petitioner

vs.

Shri Suresh Dinkar Ghorpade .. Respondent

Mr.PP.Kulkarni for the petitioner

Mr.Kiran A. Nikam for the respondent

**CORAM : K. K. TATED, J.
DATE : APRIL 27, 2017**

P.C.:

1 Heard the learned counsel for the parties.

2 By this petition under Article 227 of the Constitution of India the Petitioner challenges the judgment dated 16.12.2015 passed by Authority under the Minimum Wages Act and Judge, Labour Court, Satara in Application M.W. No.01/2010 directing petitioner to pay difference in the wages of Rs.29,050/- to the respondent as per Government notification issued for the said period under the Minimum Wages Act.

3 The learned counsel for the petitioner submits that though they raised several issues in the present Writ Petition but he received instruction to insist on the point of limitation.

4 The learned counsel for the petitioner submits that the Trial Court failed to consider the fact that application filed by the respondent under Minimum Wages Act was barred by limitation. He submits that as per the provisions of Minimum Wages Act, application for condonation of delay is required to be filed within six months from the date of cause of action. He submits that in the present proceedings, though there was delay on the part of respondent to file application, he failed and neglected to file application for condonation of delay. Apart from that, respondent failed to make out any sufficient cause for condonation of delay. In spite of these facts, Trial Court allowed the respondent's application. Hence, the present Writ Petition.

5 It is to be noted that in the present proceedings, Trial Court framed issue no.3 which reads thus:

3. Does the Opponent prove that the case/application is barred by the limitation? .. No

6 The Trial Court considered the fact on record and the reason given by respondent in his application. Respondent org.applicant in paragraph 11 stated that because of financial difficulty there was delay on his part to file application under the Minimum Wages Act, 1948. Paragraph 11 of the said application reads thus:

“11. The Applicant has filed the present Application in the appropriate and reasonable time. The Applicant further respectfully submits that, the cause of action is continuous & recurring. The Applicant also respectfully submits that, even if this Hon'ble Court comes to the conclusion that, there is delay if any in filing the present proceeding; then also the Applicant respectfully submits that, he had severally

requested the Opponents since beginning i.e. since when the minimum rates of wages were made applicable by the Government to the Grampanchayats; to pay his wages as per the rates prescribed by the Government. The Opponents herein had initially informed / told the Applicant that, they will arrange to pay the same. The Applicant had bonafide relied on this assurance of the Opponents. Much time is lapsed in waiting the positive steps from the Opponents. The Applicant however did not get any relief. The Applicant had also though not to initiate any legal proceeding against the Opponents in order to maintain the peaceful relations with them. Earlier also; the Applicant was compelled to approach this Hon'ble Court as his services were illegally and arbitrarily terminated by the Opponents. The Applicant further respectfully submits that, basically his financial condition is not sound so as to avail the legal remedy by approaching the Court of Law every time. As stated hereinabove; the Opponents also are not paying his wages as per the provisions of Law. So the weak financial condition of the Applicant is also the reason, which caused the delay if any in filing the present proceeding. The Applicant has never acted carelessly or negligently in approaching this Hon'ble Court. The valuable rights of the Applicant are involved in the present proceeding. If the delay if any is not condoned; the Applicant will suffer an irreparable injury. The Opponents will not suffer any loss if the delay if any is condoned.”

7 Considering the reasons disclosed by the respondent org.applicant in paragraph 11 about the financial difficulty and the earlier litigation in complaint (ULP) No.63 of 2011, I am of the opinion that Trial Court has rightly condoned the delay in filing application under Minimum Wages Act.

8 Considering these facts, I do not find any reason to interfere with the well reasoned order passed by Trial Court.

9 Hence, Writ Petition stands rejected.

(K.K.TATED, J.)