

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3370 OF 2018

VIBHAG NIYANTRAK MAHARASHTRA
RAJYA PARIVAHAN MAHAMANDAL LATUR
VERSUS
DNYANOBA NAGNATHRAO CHATE

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Advocate for Petitioners : Smt. Reddy Ranjana D.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: October 04, 2018

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PER COURT :-

1 Despite service of court notice, none appears for the sole respondent.

2 The petitioner is aggrieved by the ex-parte judgment dated 31.10.2017, passed by the Industrial Court, Latur, by which, Misc. (ULP) No.4 of 2016 filed by the respondent under Section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act") is allowed and revenue recovery certificate is issued addressed to the District Collector, Latur to recover a sum of Rs.18914/- along with interest @ 8% from 25.8.2015.

3 Learned counsel for the petitioner voices a grievance that the petitioner was not heard when the impugned judgment was delivered. I find from the impugned order that the petitioner was served by the

notice of the Industrial Court on 14.9.2016. An appearance is caused through an authority letter on 16.9.2016. Adjournments were sought on two occasions and finally the Industrial Court passed the order, "Proceed without say" on 30.3.2017. Subsequently, an application for setting aside the said order was filed on 29.9.2017, which was rejected as the petitioner did not file its written say to the recovery application filed by the employer.

4 Nevertheless, it is apparent that an ex-parte judgment has been delivered by the Industrial Court. The opportunity to contest the recovery application was squandered away by the petitioner by its conduct. Since the recovery of money is at issue, the matter can be remanded by imposing costs upon the petitioner.

5. Since the original order passed by the Industrial Court dated 23.4.2012, in Complaint (ULP) No.111 of 2011 has been subjected to a modification by the order of this Court, dated 25.8.2015 in Writ Petition No.10036 of 2012, it is expected that the Industrial Court would not get carried away by the chart "X", submitted by the respondent / original applicant. It is expected that the Industrial Court would consider the contentions of the parties, the oral and documentary evidence and pass a reasoned order.

6. The Industrial Court would also consider whether it has the authority and jurisdiction to decide disputed issues with regard to provident fund falling under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("1952 Act"), for which a statutory mechanism is provided and the gratuity claim for which adjudicatory authorities are prescribed under the Payment of Gratuity Act, 1972.

7. In view of the above, this petition is partly allowed. The impugned order dated 31.10.2017 is quashed and set aside and Misc. (ULP) No.4 of 2016 stands remitted to the Industrial Court, Latur with the following directions:-

(A) The petitioner shall appear before the Industrial Court on 26.10.2018.

(B) The petitioner shall deposit costs of Rs.25,000/- before the Industrial Court, Latur on/or before 26.10.2018.

(C) The petitioner shall tender its written say to the recovery application along with all documents on which it desires to rely upon, on the same date.

(D) Since the respondent No.1 has not appeared in this Court despite court notice, the Industrial Court shall issue notice to the original applicant on 26.10.2018 making it returnable on 26.11.2018.

(E) The costs amount deposited before the Industrial Court shall be withdrawn by the original applicant without conditions.

(F) Both the sides are at liberty to lead oral and documentary evidence and the Industrial Court shall endeavour to decide Misc. (ULP) No.4 of 2016 on/or before 31.7.2019.

(RAVINDRA V. GHUGE, J.)

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akl/d

Ajay
Kishanrao
Losarwar

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by Ajay
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