

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

WRIT PETITION NO. 8952 of 2018

M/s. Lumax Auto Technologies Limited
Plot No. A-8, Waluj MIDC Industrial Area,
Aurangabad, through its Plant Head.

...Petitioner

VERSUS

Aurangabad Majdoor Union,
Ajab Nagar, CITU Office, Aurangabad,
through its General Secretary, Aurangabad

...Respondent

*Mr T.K. Prabhakaran, Advocate for petitioners
Mr R.B. Mule, Advocate for respondent.*

CORAM : SUNIL P. DESHMUKH, J.

DATE : 10th August, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally with consent.

2. It is case of petitioner that complaint against petitioner has been lodged by respondent alleging certain unfair labour practices and the same is pending adjudication. Petitioner further purports to refer to that , inter alia, declaration is sought about closure being illegal.

3. Amount of full and final payment through cheque had

been sent to workmen. It is contention of petitioner that members of the respondent had decided not to encash cheques. The cheques were deposited before the Industrial Court, Aurangabad.

4. Members of the respondent are stated to be facing financial crisis, they are stated to be constrained to show willingness to accept full and final amount without prejudice to their rights and accordingly application has been made by respondent before the Industrial Court.

5. It appears that on 12th March, 2018 in response to aforesaid application 'say' had been filed by the petitioner. Learned counsel Mr Prabhakaran contends that after 'say' had been filed, hearing on application had been expected. However, on 12th March, 2018 the order came to be passed and petitioner had no opportunity of hearing.

6. Learned counsel Mr Mule submits that on the 12th March 2018 itself opportunity had been available to petitioner, however, it had not been availed. He submits that while order was passed on 12th March, 2018, it was not protested. The same is borne out from the proceedings which had taken place on 12th April, 2018 when extension had been sought. He tenders across application dated 12th April 2018. Learned counsel for the respondent submits

that while extension had been sought for implementation of the order, it had never been case of petitioner that it had not been heard on 12th March, 2018. Petitioner now cannot come back taking benefit of its non-diligence. He submits that it is practice of petitioner to prolong decision making in the matter.

7. Perusal of paragraph No.1 of application dated 12th April 2018 refers to that two months' extension for implementation of the order had been sought as petitioner had proposed to challenge the order in the High Court.

8. Perusal of order dated 12th May, 2018 does not reflect upon as to whether any hearing had been granted to the petitioner. It only reflects upon that application had been moved, say had been filed and record had been perused.

9. In the circumstances, it appears to be in fitness of things since grievance is made about hearing of application Exhibit U-36 to remit the matter to Industrial Court.

10. In view of aforesaid, impugned order is set aside. Matter is remitted to Industrial Court for hearing afresh on application Exhibit U-36.

11. It is expected that the Industrial Court would proceed

with hearing on application Exhibit U-36 as early as possible and decide the same within a period of four weeks from the receipt of writ of order of this court.

12. Rule made absolute accordingly.

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar