

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

WRIT PETITION NO.4280 OF 2019

JANARDHAN MAHADEO KAMBLE AND OTHERS
VERSUS
M/S NATH PULP AND PAPER LIMITED

...
Shri N.R.Thorat, Advocate for the petitioners.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st June, 2019

Per Court:

1 I have heard the learned advocate for the petitioners for sometime.

2 The eleven petitioners and twenty five others had approached the Industrial Court in Complaint (ULP) No.153/2009 seeking a direction that the respondent company should not remove, shift, alienate, dispose off, sell or transfer the property described in the prayer clause. It was also prayed that the respondent be directed to pay compensation of Rs.50,000/- to each one. A declaration of unfair labour practice under Item 9 of Schedule IV of the MRTU & PULP Act, 1971 was also sought. There was no other prayer in the said complaint.

3 The issue raised before the Industrial Court was with regard

to the permission of closure granted to the respondent company by the competent authority under section 25-O of the Industrial Disputes Act, 1947. The litigating sides were before this Court against the order below Exhibit U/2 in Reference (IT) No.4/2008. This Court, by the consent of the parties, disposed off Writ Petition No.1988/2010 filed by the company challenging the interim relief granted to the workers, by directing the company to deposit Rs.45 lac in the Industrial Court. With this direction, the said writ petition was disposed off and the interim relief granted by the Industrial Tribunal was vacated. Permission was granted to these 11 petitioners along with the remaining 25 original complainants in Complaint (ULP) No.153/2009, to withdraw the amount of Rs.45 lac. The company deposited the said amount in the court. An application exhibit U/14 was filed by the 36 workmen seeking permission to withdraw the amount as full and final payment. The said application was allowed and they received their amounts. Rs.32,79,131/- was received by these 36 workmen and the remaining amount of Rs.12,20,869/- was invested in the fixed deposit receipt on 25.06.2011 in the Axis Bank.

4 While disposing off the complaint by the impugned judgment dated 04.01.2018, the Industrial Court recorded that some amount was payable to the employees credit cooperative society. Both the advocates agreed before the Industrial Court to satisfy the dues of the credit society from the amount invested in the Axis Bank. Exhibit U/43 is the chart

submitted by the complainants indicating Rs.18,09,746/- to be the amount payable to the employees credit society. However, as per the chart of the Management, the society dues were Rs.17,41,268/-. Considering that the statement produced by these petitioners along with other complainants is authenticate, the Industrial Court disposed off the complaint and directed the transferring of Rs.18,09,746/- from the Axis Bank to the credit society.

5 The contention of these 11 petitioners is that the respondent has not been permanently closed down though it has been granted permission to close down under Section 25-O. They pray for reinstatement in service and compensatory costs of Rs.50,000/- to each of them.

6 Having heard the learned advocate for the petitioners, I ex-facie find that the petitioners had never made any claim for reinstatement before the Industrial Court and on the basis of the interim order of not to shift the plant and machinery, they succeeded in striking a deal with the company due to which Rs.45 lac were deposited by the company in the court. Now, these 11 petitioners seek to challenge the impugned judgment when the same is actually delivered on consent. As such, on the one hand, these petitioners have received the compensation as they had desired and on the other hand, having accepted the compensation, now they expect this court to direct the respondent to restart the factory or continue some operations and grant reinstatement to these workers even after receiving

the discharge compensation on account of closure.

7 I, therefore, made it known to the learned advocate for the petitioners that I would be directing the petitioners to redeposit the entire amounts of closure compensation that they have received, in this court, as a precondition for entertaining this writ petition in the light of the judgment delivered by the Honourable Supreme Court in the matter of ***Man Singh vs. Maruti Suzuki India Limited and another, (2011) 14 SCC 662***. I also made it clear that I would not entertain this writ petition if the amounts are not deposited.

8 At this juncture, the learned advocate for the petitioners submits that the petitioners desire to withdraw this writ petition.

9 In view of the above, this Writ Petition is dismissed as withdrawn.