

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 383/2019

(SANT KEJAJI MAHARAJ SMRUTI AND SHAIKSHANIK SANSTHA, GHORAD & ANOTHER **VERSUS**
 VITTHAL MAHADEORAO HINGE & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri V.K. Paliwal, counsel for petitioners.
 Shri A.J. Salway, counsel for R-1.
 Ms Arti Singh, Advocate h/f Shri P.D. Meghe, counsel for R-2.
 Ms S.S. Jachak, A.G.P. for R-3.

CORAM : A.S. CHANDURKAR, J.

DATE : APRIL 18, 2019.

RULE. Heard finally with consent of learned counsel for the parties.

The petitioners are aggrieved by the order dated 09.10.2018 passed by the learned Member of the Industrial Court rejecting the application filed by the petitioners seeking exemption in the matter of depositing the requisite amount as adjudicated by the Controlling Authority as a condition for preferring the appeal. By an order dated 27.08.2018, the Controlling Authority has adjudicated the amount of gratuity to which the respondent no.1 is entitled to be Rs.5,11,357/-. That amount has been directed to be paid with simple interest at the rate of 10% per annum from 21.11.2017 till realization. The petitioners sought to challenge that order by filing an appeal. They sought exemption from depositing the amount as adjudicated on the ground that their financial condition did not permit them to comply with the same. By the impugned order, that application came to be rejected.

This Court while issuing notice to the respondents recorded the statement made on behalf of the petitioners that the entire amount as directed by the Controlling Authority would be deposited by 04.03.2019. After such deposit the respondent no.1 was permitted to withdraw an amount of Rs.1,50,000/-. It is informed that amount of Rs.5,37,137/- stands deposited by the petitioners in compliance with the order dated 21.01.2019. In that view of the matter, the following order is passed:-

I. From the amount deposited by the petitioners, Appellate Authority shall permit the respondent no.1 to withdraw amount of Rs.1,50,000/- after deducting an amount of Rs.49,489/- as directed by the Accountant General, without prejudice to the rights of the parties. It is open for the respondent no.1 to challenge the directions as regards deduction of the amount of Rs.49,489/- if so advised.

II. The balance amount be kept in Fixed Deposit.

III. The Appellate Authority shall entertain the appeal as filed by the petitioners and decide the same expeditiously in accordance with law. In view of compliance of the directions dated 21.01.2019, the impugned order dated 09.10.2018 shall cease to operate.

The Writ Petition is disposed of in aforesaid terms. No costs.

JUDGE