

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

WRIT PETITION NO.233 OF 2020

The Superintending Engineer,
Public Works Department,
Bandhkam Bhavan,
District Court Premises,
Adalat Road, Aurangabad
and others

..Petitioners

Vs.

Kishor s/o. Bhimrao Shirsath,
Age : 45 years, Occ. Service,
r/o. Panchshil Nagar,
Near Balaji Mangal Karyalaya,
Mondha Naka, Aurangabad
and others

..Respondents

Mr.Vivek Dhage, Advocate for petitioner
Mr.A.S.Shelke, Advocate for respondent nos.1 to 14

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 26, 2021**

PER COURT :-

Heard learned counsel for the parties.

2. The order dated 04.10.2019 passed by learned Member, Industrial Court, Aurangabad, on application Exhibit U-21 in complaint (ULP) No.192 of 2017 is under challenge in this petition.

3. By the impugned order, the petitioners have been directed to pay unpaid wages of the respondents (complainants) from July, 2018 to the date of the order. The impugned order has been passed mainly on the ground of the order passed by this Court on 30.09.2019 in Writ Petition No.11982 of 2019. The Industrial Court held that in view of the observation of the High Court that the petitioners (respondents herein) are in employment, therefore, the respondents have been directed not to change their service conditions without leave of the Court, the complainants are entitled for unpaid wages till date. The respondents/complainants have instituted criminal complaint for failure to implement the order impugned in this Writ Petition.

4. Learned counsel for the petitioners has relied on a copy of the order dated 18.02.2020 passed in Writ Petition No.2824 of 2020 to submit that grant of back wages is an order, which can be passed after recording of oral and documentary evidence and not as an interim relief with no evidence or skeletal evidence being available. According to

the petitioners, the respondents were engaged on job basis as and when was available. They have never worked during the period for which the petitioners have been directed to pay them their wages.

5. The order impugned herein is an interlocutory order. It has been passed simply on the basis of the order passed by this Court in Writ Petition No.11982 of 2019. The petitioners dispute the respondents to have worked during the period from July, 2018 to the date of the order i.e. 04.10.2019. As such, it is a matter of evidence to be recorded and looked into by the trial Court i.e. Industrial Court, Aurangabad.

6. The Writ Petition can be disposed of with a direction to the petitioners to deposit a sum of Rs.Five Lakhs in the Industrial Court, Aurangabad, towards wages, if any, of the respondents to which they would be entitled to, if the Industrial Court comes to the conclusion that they are entitled for arrears of the wages.

7. In view of the above, the Writ Petition is disposed of in terms of following order :-

- (i) The order impugned herein is hereby set aside.
- (ii) The petitioners shall deposit a sum of Rs.Five Lakhs in the Industrial Court towards wages, if any, of the respondents, within a period of two months from the date of this order. The amount to be deposited by the petitioners shall not be paid to the respondents, pending the complaint (ULP) No.192 of 2017.
- (iii) The Industrial Court shall decide the complaint (ULP) No.192 of 2017 on its own merit, within a period of eight months from the date of receipt of a copy of this order.

[R.G. AVACHAT, J.]

KBP