

(1)

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

908 WRIT PETITION NO.11050 OF 2021

**RASHTRIYA KAMGAR SANGH BHOKAR INTAC THR ITS
AUTHORIZES SIGNATORY RAMCHANDRA ANANDRAO HIVARALE
VERSUS
THE COMMISSIONER OF SUGAR AND OTHERS**

Mr. S.S. Gangakhedkar, Advocate for petitioner;
Mr. P.K. Lakhotiya, A.G.P. for respondent no.1;
Mr. P.S. Dighe, Advocate holding for Mr. V.R. Dhorde, Advocate for
respondent no.3

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 4th March, 2022

P.C.

1. The petitioner – union has put-forth prayer clause (B) which
reads as under:-

“(B) By an Order of this Hon’ble High Court in the like
nature of writ and / or appropriate order or direction,
kindly direct the respondent No.1, 2, 3 and 5 to pay the
dues of unpaid salary, gratuity, bonus and provident
fund to the members of the petitioner union as are
quantified in the communication dated 20.09.2012 by

(2)

Special Auditor (Exh. C) with accrued interest as applicable.”

2. We find that respondent no.1 Commissioner of Sugar has been arrayed as respondent no.1 only to invoke the writ jurisdiction of this Court. The petitioner union representing workers desires that the unpaid salaries, gratuity, bonus and P.F. accumulations be paid.

3. If the amounts of unpaid salaries are to be recovered on behalf of the workers mentioned at page no.21, the union or the workers can resort to a remedy under Section 33-C (2) of the Industrial Disputes Act, 1947. If the gratuity is unpaid, they can seek such recovery under the Payment of Gratuity Act. If the bonus is unpaid, provided the right is crystallized, the remedy lies under Section 33-C (2) of the Act. If the provident fund accumulations are to be recovered and there is no trust so established, the petitioner can approach the Provident Fund Authorities. Even if it is presumed that all these payments are admitted and are still unpaid or lying with a particular Authority, the petitioner can then take recourse to Section 33-C (2) of the Act.

(3)

4. This Court cannot exercise writ jurisdiction in recovery matters.

5. The learned Advocate for the petitioner submits that the Sugar Commissioner has conducted a proceedings by which the amount is lying with him according to the petitioner union. The said amount is not being disbursed.

6. In view of the above, the petitioner would be at liberty to approach respondent no.1 and seek the payment of the said amounts or avail of the remedies as are permissible under various Labour Laws.

7. In view of the above, this petition is disposed off with liberty to avail of a remedy as is permissible in law.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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