

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2674 OF 2021

Babu Natha Gaikwad

Petitioner

Versus

District Collector, Aurangabad
& others

Respondents

Mr. N. L.Dhobale, Advocate for the petitioner.

Mr. P. K. Lakhotiya, AGP for respondents No. 1 to 3.

**CORAM : RAVINDRA V. GHUGE &
S. G. DIGE, JJ.**

DATE : 22nd APRIL, 2022.

PER COURT :

1. The petitioner is an 80 years old retired employee of the sugar factory.

2. On 7th April, 2022, we had passed the following order :-

“1. There is no dispute that the quantum of gratuity amount payable to the petitioner has been quantified and the judgments of the Controlling Authority as well as the Appellate Authority under the Payment of Gratuity Act, 1972, having attained finality as the said judgments are not set aside by

any superior court. The petitioner is also equipped with the Revenue Recovery Certificate (RRC) issued by the Assistant Commissioner of Labour, Aurangabad, dated 22.09.2003.

2. As such, since respondent No. 1 is a formal party, we grant leave to the petitioner to delete respondent No. 1. Deletion be carried out forthwith.

3. The record reveals that the District Collector, Aurangabad had specifically issued the order to the Tahsildar, Gangapur on 04.04.2019 to recover the amount, which is yet to be recovered in the light of the earlier part recovery of Rs. 49,403/-. Thereafter, the District Collector once again issued the order to the Tahsildar, Gangapur, on 05.07.2019 giving him three days time to submit a report as to the delay caused.

4. In view of the above, we direct the petitioner to add the Tahsildar, Gangapur, District Aurangabad, as respondent No. 3. Addition be carried out forthwith.

5. Issue notice to the added respondent/Tahsildar. The learned AGP waives service of notice.

6. List the petition in the urgent orders category on 22.04.2022 so as to enable the learned AGP to take instructions. Needless to state, the Tahsildar, Gangapur, owes an explanation to the Court.

3. Today, the learned AGP points out an order passed by this Court on 6th September, 2011 in Writ Petition No. 2827/2008 by which, the sugar bags which were attached in the year 2002-2003 by the petitioner, Maharashtra State Co-operative Bank Limited, against the loan advanced to the sugar factory, were sold and the proceeds of the said sale of sugar bags was directed to be deposited with the Registry of this Court. The learned AGP submits that the sale proceeds of the sugar bags fetched Rs. 38,80,029/-. He believes that the said amount was deposited in this Court. Subsequently, by order dated 21st March, 2012, the petition was admitted after noting that the amount of the sale proceeds of the sugar bags were deposited in this Court. The said amount was directed to be invested in Fixed Deposit Receipt with a Nationalised Bank at Aurangabad, initially for a period of thirteen months and to be renewed from time to time till the disposal of the writ petition.

4. The learned AGP submits that the Tahsildar is practically helpless. His hands are tied. The immovable property of the sugar factory is under attachment. The Tahsildar can neither sell any property of the sugar factory nor are there any sugar bags to be sold to recover the amount of Rs. 72,222/- as on 22nd September, 2003, payable to the petitioner. The said amount is roughly Rs. 3,00,000/- as on date. This amount is towards the gratuity payment.

5. In these circumstances, this petition is disposed off with liberty to the petitioner to prefer a Civil Application in Writ Petition No. 2827/2008 requesting for the amount to be released as it pertains to his gratuity.

(S. G. DIGE)
Judge

(RAVINDRA V. GHUGE)
Judge

dyb