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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 10210 OF 2019**

BRICKS FACILITIES (SUGAR DIVISION)PETITIONER
PVT. LTD. THR. ITS MANAGING DIRECTOR

V/s.

SHRI. GANPATI BALAKU RAKTADE AND ORS ..RESPONDENTS

**AND
CIVIL WRIT PETITION NO. 10391 OF 2019**

BRICKS FACILITIES (SUGAR DIVISION)PETITIONER
PVT. LTD. THR. ITS MANAGING DIRECTOR

V/s.

SHRI. PRAKASH HINDURAO WATAVE AND ORS ..RESPONDENTS

**AND
CIVIL WRIT PETITION NO. 10780 OF 2019**

BRICKS FACILITIES (SUGAR DIVISION)PETITIONER
PVT. LTD. THR. ITS MANAGING DIRECTOR

V/s.

SHRI. RAMCHANDRA KRUSHNAJI PANHALKAR ..RESPONDENTS
AND ORS

**AND
CIVIL WRIT PETITION NO. 6808 OF 2022**

BRICKS FACILITIES (SUGAR DIVISION)PETITIONER
PVT. LTD. THR. ITS MANAGING DIRECTOR

V/s.

SHRI. SADASHIV TUKARAM NAUKUDKAR
AND ORS

..RESPONDENTS

Mr. Kiran Bapat i/b M/s. Desai & Desai Associates for the Petitioner
None for Respondent

CORAM : NITIN W. SAMBRE, J.
DATE: JUNE 13, 2022.

P.C.:

- 1) Heard. Since all these petitions involve a common issue, they are being disposed of by a common order.
- 2) Respondents-employees taken out complaint (ULP) No. 123 of 2015 before Member, Industrial Court, Kolhapur alleging that gratuity and difference in wages are not paid. Said ULP complaint preferred by the Respondents-employees came to be allowed vide order impugned passed on 25/26 of March 2019. As such, these petitions.
- 3) Facts necessary for for deciding all these petitions are as under:
- 4) Respondent no. 46 is Cooperative Sugar Factory. Said Respondent hired services of Respondent nos. 1 to 45 in its employment and said Respondents were on the permanent pay role.
- 5) Petitioner and Respondent no. 46 entered into an Agreement dated 04/03/2014 whereby Petitioner agreed to run and manage sugar

factory of Respondent no. 46 Cooperative Society. Said agreement is termed as collaboration agreement.

6) Claim of Respondent nos. 1 to 45 for grant of difference in wages, amount of gratuity was duly resisted by present Petitioners so also Respondent no. 46 by filing their reply in ULP complaint in question. Respondent Sugar Factory denied their liability. They have also denied status of Respondents as that of employee/worker. It is brought on record that Petitioner and Respondent no. 46 have entered into collaboration agreement dated 04/03/2014 based on which it is claimed that present Petitioner has accepted the liability of the government dues, bank and financial institution, retiral benefits, provident funds, bonus, gratuity etc.

7) It is further claimed that since the Petitioner is in possession of the entire property of Respondent no. 46 Sugar factory since 01/10/2013, Petitioner becomes successor in interest of said Respondent and legal dues, if any payable to the Respondent employees are to be paid by the Petitioner. Present Petitioner, in response to the claim made in the complaint, filed their written statement at Exh. C-5. While resisting the claim in the complaint, it is

claimed that Petitioner has stepped in the shoes of Respondent no. 46 sugar factory pursuant to collaboration agreement. According to Petitioner, liability, if any, will be prospective and not retrospective. Respondent no. 46 to the complaint pressed the issue of limitation.

8) Having regard to the rival claims before the Industrial Court, the issues were framed in relation to maintainability of the complaint, discharge of burden by Respondents-employees as regards proving the unfair labour practice and the reliefs claimed.

9) Tribunal, thereafter, having regard to the recitals in the collaboration agreement, the liability to pay statutory dues to the employees has ruled in favour of Respondent nos. 1 to 45 thereby declaring that Respondents to the complaint are engaged in unfair labour practice and they are liable to pay amount of gratuity, difference in wages with accrued interest. As such, this petition.

10) Star contentions of Mr. Bapat, counsel for the Petitioner are collaboration agreement dated 04/03/2014 is prospective and such agreement was to operate for a period of 10 years from the said date. According to him, even if notional possession of the property was taken in 2013, law ought not to have been fastened against the Petitioner as

same goes contrary to the very recitals in the collaboration agreement. He would further claim that Petitioner is an agent of principal employer i.e. Respondent no. 46. As such, Respondent no. 46 who is liable to pay amount and not the Petitioner. So as to substantiate the aforesaid contention, he has invited attention of this Court to nature of claim and period for which the monetary claim is made.

11) I have appreciated aforesaid submissions.

12) Having carefully gone through the Judgment delivered by the Industrial Court what can be noticed is, Industrial Court was sensitive to nature of claim made by Respondents-employees. Whether such claim amounts to unfair labour practice within the meaning of provisions of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Laws Practices Act, 1971 was duly analysed and pleadings, evidence on record has prompted the Court to declare that Petitioner is engaged in unfair labour practice.

13) The defence set up by the Petitioner and Respondent No.46 cannot be termed to be overlapping so as to infer fastening of liability on Respondent No.46 principal employer. Rather, recitals in the agreement prima facie demonstrate that it is because of financial

hardship and mounting liabilities of Respondent No.46, the Petitioner entered into financial collaboration agreement assuring taking over liabilities like one arising in the case in hand. Fact remains that since 2014 till this date, Petitioner is not operating sugar factory and rightly so burden is fastened on the Petitioner to pay the liability based on collaboration agreement .

14) No doubt, Mr. Bapat has drawn support from recitals of the collaboration agreement, his contention that liability arising out of impugned order is that of principal employer as per collaboration agreement, however, this Court is required to be sensitive to the fact that settlement reached in between Respondent no. 46 and other employees is equally binding on the Petitioner as the Petitioner has stepped into shoes of Respondent no. 46 for the purpose of satisfying of statutory liabilities. Needless to clarify that payment of gratuity is statutory liability under the provisions of Payment of Gratuity Act.

15) Recitals in the collaboration agreement, particularly clause 14 r/w clause 6 & 11 in categorical terms provides that responsibility in relation to wages and gratuity is that of the Petitioner.

16) In the aforesaid background, Industrial Court was justified in

observing that Petitioner and Respondent no. 46 are engaged in unfair labour practice by not honouring demand made in the settlement already arrived at.

17) In the backdrop of above findings, I hardly see any convincing reason which warrants interference with the order impugned passed by the Industrial Court.

18) At this stage, Mr. Bapat, counsel for the Petitioner submits that Petitioner be granted liberty to recover the above amount from Respondent no. 46.

19) As far as said claim is concerned, parties i.e. Petitioner and Respondent no. 46 are always entitled to enforce terms of the collaboration agreement against each other.

20) In the aforesaid background, no case for interference is made out.

21) Petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]