

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.376 OF 2022

(Maharashtra State Co-operative Bank Ltd., thr. its Asstt. Manager Nandkishor
Sahebrao Talokar Vs. Vainganga Sahakari Sakhar Karkhana Mazdoor Sangh, thr. its
Joint Secretary Arun Shamrao Hood)

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

Court's or Judge's orders.

Mr. Bhushan Joshi, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 1st FEBRUARY, 2022.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The petitioner is assailing the common order dated 26.11.2021 rendered by the Industrial Court (Maharashtra) in Miscellaneous (ULP) 1/2021 and Miscellaneous (ULP) 2/2021.

3. By the common order impugned the Industrial Court has decided two separate applications preferred by the employees seeking withdrawal of the amount of Rs.13,89,84,334/- (Rupees Thirteen Crores Eighty Nine Lakhs Eighty Four Thousand and Three Hundred Thirty Four) deposited by the petitioner Bank.

4. The genesis is the judgment of the Industrial

Court dated 24.08.2006 directing the management of the Sakhar Karkhana to pay the employees unpaid salary.

5. The judgment of the Industrial Court was not complied with and the employees preferred an application under Section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (Act) for issuance of recovery certificate. The Industrial Court vide order dated 27.04.2007 directed the management of the sugar factory to make the payment of unpaid salary. This order was challenged before this Court in Writ Petition 3879/2012 and was upheld vide judgment dated 01.12.2015. In the interregnum the assets of the sugar factory were attached and sold by the petitioner Bank. In Civil Appeal 332/2016 which came to be decided by the Hon'ble Supreme Court vide judgment dated 04.12.2019, the Hon'ble Supreme Court held that the petitioner Bank must pay the employees their dues out of the sale proceeds. The Hon'ble Supreme Court further noted that since there was significant delay in payment of dues, the recovery shall be made by the Collector within a period of six months from the date of the order. It is in view of the said order of the Hon'ble Supreme Court that the petitioner Bank has deposited the amount, which the employees have been permitted to withdraw.

6. The petitioner Bank however, opposed the prayer of the employees for withdrawal contending that the petitioner Bank has preferred a review petition before the

Hon'ble Supreme Court. This objection is considered by the Industrial Court thus:

10] No doubt, according to the non-applicant Bank, it has filed Review Petition before Hon'ble Apex Court which is pending. The non-applicants have filed applications Exh.C-4, Exh.C-5, Exh.C-6, Exh.C-7 and Exh.C-8 for adjournments to bring appropriate stay order against disbursement from the Hon'ble Apex Court. Sufficient opportunity came to be granted from the month of September upto this date, but non-applicant Bank failed to secure appropriate order from Hon'ble Apex Court.

11] The poor employees are repeatedly attending the Court on every date in the hope that this Court would pass some order regarding disbursement of the amount. However, on every date case was adjourned at the instance of non-applicant. Today, none is present for non-applicant nor any application or order of Hon'ble Apex Court is placed on record. Therefore, I find it would be appropriate to pass some order in both the applications.

7. At this stage, the learned counsel for the petitioner submits that the other objection to the withdrawal is that the elected representatives do not know the employee personally and that there is nobody who can identify them. In my considered view, the attempt of the management is to overreach the process of the Industrial Court. Be it noted that in the operative part the Industrial Court has ensured that the amount will be withdrawn only by the rightful

claimant. This is crystal clear from the following directions issued by the Industrial Court:

- a) *to furnish list of name of workers, their Adhar Cards, Identity Card, Election Card, Bank Account Number with Bank Pass Book, so also, amount payable to every employees.*
- ii] *They are further directed, in case of death of any of the employees/workers, to furnish to the Court his legal heir certificate, agreement amongst legal heirs, if any, to whom amount is payable, account number, pass book of legal heirs, Adhar card, Election Card, etc.*
- iii] *COC/Assistant Registrar of this Court is directed to verify amount payable, all the documents from originals and give report accordingly.*
- iv] *The Court shall disburse amount to each of the employees/workers by crediting to their Bank account by direct transfer.*
- v] *The Office is directed to release amount in favour of each of the workers as and when the order passed by this Court.*

8. The petition is absolutely without substance, and is dismissed.

JUDGE