

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.6966 of 2018

Ballu Bhivaji Bodkhe (Since Deceased) Thr. Lrs., Smt. Kusumbai Baldev (Ballu)
Bodkhe And Others

Vs

Nagar Parishad, Mehkar Through Its Chief Officer And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Sayajee Jagtap, Advocate for the Petitioner/s
Shri A.R. Deshpande, Advocate for the respondent No.1

CORAM : ANIL S. KILOR, J.

DATED : 26.07.2023

1. Heard.
2. The petitioners are the legal heirs of one Ballu Bhivaji Bodkhe, who was working in the respondent- Municipal Council and his claim was allowed by the learned Industrial Court for regularization with incidental benefits and difference of wages. Since the order of the Industrial Court was not complied with, Misc. ULP (Recovery) Application No.15 of 2006 was filed for issuance of Recovery Certificate before the learned Industrial Court on 12.10.2006.
3. In the meantime, the respondent-Council granted permanency to Ballu Bodkhe w.e.f. 01.02.1988 and as such Ballu Bodkhe is entitled for difference of wages with other benefits and thereafter, in pursuance to the same, the respondent-Council paid Rs.4,87,564/- to Ballu Bodkhe in three installments without prejudice to the other rights of Ballu Bodkhe.

4. It is worth mentioning here that Ballu Bodkhe was superannuated on 19.07.2001 and as a settlement arrived between the respondent-Council that Ballu Bodkhe to receive the amount in three installments. It appears that in the year 2006, Ballu Bodkhe approached to the learned Industrial Court under Section 50 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (for short “the Act of 1971”) for recovery of arrears and difference of wages to the tune of Rs.14,70,000/-.

5. An affidavit filed on 11.10.2013 in the said proceeding by the legal heirs of Ballu Bodkhe shows outstanding amount as Rs.81,72,565/-. There was no mention about the amount received in view of the settlement dated 30.08.2013 from Municipal Council. Whereas, in the evidence the amount of Rs.4,87,564/- was stated as the amount recoverable from the respondent- Council.

6. Thus, from the above referred facts, it is evident that the petitioners are not sure about the amount recoverable from the respondent-Municipal Council.

7. The application under Section 50 of the Act of 1971 is an execution proceeding and in absence of any calculation submitted by the petitioners and further in view of suppression of facts as regards the amount received by the petitioners, in paragraph 10 of the impugned order the learned Industrial Court has categorically held that the petitioners have not approached to the Court with clean hands and since the petitioners have not approached with a specific amount after making the calculation,

the application was rejected vide impugned judgment and order dated 24.01.2017.

8. In that view of the matter, since nothing has been pointed out to show any perversity or illegality committed by the learned Industrial Court while dismissing the application under Section 50 of the Act of 1971, I do not find any merits in the present petition. Accordingly, it is **dismissed**.

[ANIL S. KILOR, J.]