

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.9056 OF 2022

1. The Mahatma Gandhi Memorial Hospital
Parel, Mumbai – 400 012.
2. Medical Superintendent
The Mahatma Gandhi Memorial Hospital
Parel, Mumbai – 400 012.Petitioners

V/S

Prakash Jairam Gorale
Room No.198, Sunder Kamla Nagar,
Bhau Daji Road, King Circle,
Mumbai.Respondent

**WITH
WRIT PETITION NO.9437 OF 2024**

Dr. Shivkumar Bhale
Age 56 years,
C/o. MGM Hospital,
Parel, Mumbai – 400 012.Petitioner

V/S

Prakash Jairam Gorale
Room No.198, Sunder Kamla Nagar,
Bhau Daji Road, King Circle,
Mumbai.Respondent

**WITH
WRIT PETITION NO.9443 OF 2024**

1. The Mahatma Gandhi Memorial Hospital
Parel, Mumbai – 400 012.
2. Mr. Shivkumar Bhale
56 years,
Medical Superintendent
Parel, Mumbai – 400 012.Petitioners

V/S

Prakash Jairam Gorale
Room No.198, Sunder Kamla Nagar,
Bhau Daji Road, King Circle,
Mumbai.Respondent

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Mr. B.D. Birajdar with Ms. Komal Deshmukh, *for the Petitioners.*
Mr. L.R. Mohite with Ms. Harshali Mohite *for Respondent.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 16 JULY 2024.
PRONOUNCED ON: 24 JULY 2024.

JUDGMENT:

1 **Rule.** Rule is made returnable forthwith in all the three Petitions. With the consent of the learned counsel appearing for parties, Petitions are taken up for final hearing and disposal.

2 Award passed by 8th Labour Court, Mumbai on 29 November 2019 directing Petitioner-Mahatma Gandhi Memorial Hospital (**Hospital**) to reinstate Respondent-Complainant from the date of termination i.e. w.e.f. 3 February 2010 with 50% of backwages and continuity of service as upheld by the Industrial Court by judgment and order dated 15 December 2021 is the subject matter of challenge in the Writ Petition (Stamp) No.9056 of 2022. Since Petitioners failed to implement the Award of the Labour Court under challenge, it appears that the Respondent-employee has instituted Miscellaneous Criminal Complaint, in which the Labour Court has issued process against Resident Medical Officer Dr. Shivkumar Bhale by order dated 13 May 2022. In Revision the Industrial Court has refused to interfere in the order of the Labour Court issuing process in the Miscellaneous Criminal Complaint and has dismissed the Revision Applications filed by Petitioner-Hospital and by Dr. Shivkumar Bhale by judgment and order dated 11 December 2023. Accordingly, Writ Petition Nos.9443 of 2024 is filed by Petitioner-Hospital and Writ Petition No.9437 of 2024 is filed by Dr. Shivkumar Bhale challenging the decisions of the Labour Court as upheld by the Industrial Court issuing process for non-implementation of the order of the Labour Court. Thus, the main Petition that requires consideration is Writ Petition (Stamp) No.9056 of 2022 in which the Award of the Labour Court dated 19 November 2019, as upheld by the Industrial Court on 15 December 2021, is under challenge.

3 Petitioner-Hospital is fully funded by Government of Maharashtra and by Government of India and provides medical facilities to insured persons and

their families under the scheme of Employees State Insurance Act, 1948. Notice dated 19 April 2006 was issued by Petitioner-Hospital inviting applications for walk-in-interview for filling up posts X-ray Technician and Laboratory Assistant for a period of 89 days on contract basis till appointment of regular candidate. Respondent applied in pursuance of the said Notice and was selected for being appointed on the post of Laboratory Assistant in Pathology Department on contract basis for 89 days. Accordingly, Petitioner-Hospital issued order dated 8 May 2006. Separate order dated 17 May 2006 was issued to Respondent appointing him as Laboratory Assistant from 9 May 2006 to 5 August 2006 (89 days) on temporary basis on various conditions including the condition of relief from Hospital on completion of 89 days or on availability of regular candidate. It appears that by letter dated 27 July 2006, request was sent to the Medical Superintendent for continuation of services of Respondent. Accordingly, after the first tenure of the appointment came to an end on 5 August 2006, fresh appointment order was issued for another tenure of 89 days from 9 August 2006 to 5 November 2006 vide order dated 7 August 2006. In this manner, Respondent was appointed from time to time for tenure of 89 days after giving break of 2/3 days at the end of each tenure. By office order dated 3 February 2010, he was informed that his contract of employment had expired on 1 February 2010 as per letter of appointment dated 4 November 2009.

4 Respondent filed Complaint (ULP) No.218 of 2010 in Labour Court, Mumbai seeking a declaration that his appointment on contract basis on 17 May 2006 was illegal, *ab-initio* void and bad in law as well as challenging the

letter dated 3 February 2010. Respondent also challenged his termination with effect from 3 February 2010 and sought reinstatement in service with continuity and back-wages. The Labour Court has proceeded to allow the Complaint filed by Respondent by judgment and order dated 29 November 2019 by directing Petitioner to reinstate Respondent in service with continuity of service from the date of termination i.e. 3 February 2010. Petitioner-Hospital is also directed to pay 50% salary from the date of termination i.e. 3 February 2010 till the date of his reinstatement towards back-wages.

5 It appears that since the order dated 29 November 2019 was not complied with by Petitioner-Hospital, Miscellaneous Criminal Complaint (ULP) No.8 of 2021 was filed by Respondent in the Labour Court in February 2021. The Labour Court issued notice to the Petitioners (Hospital as well as Dr. Shivkumar Bhale) in Miscellaneous Criminal Complaint. It appears that after receipt of notice in the Criminal Miscellaneous Complaint, Petitioners filed Revision Application (ULP) No.35 of 2021 before the Industrial Court, Mumbai on 30 July 2021. The Revision filed by Petitioners is however dismissed by the Industrial Court by judgment and order dated 15 December 2021.

6 Writ Petition (Stamp) No.9056 of 2022 is filed by Petitioner-Hospital and the Medical Superintendent challenging the judgment and order passed by the Labour Court on 29 November 2019 as well as judgment and order dated 15 December 2021 passed by Industrial Court. It appears that since the order of the Labour Court was not complied, the Respondent pursued

Criminal Miscellaneous Complaint No.8 of 2021, in which the Labour Court issued process against Dr. Shivkumar Bhale for offence under section 48(1) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**MRTU and PULP Act**) and ordinary summons against Petitioner-Hospital. The Labour Court's order dated 13 May 2022 was challenged both by Dr. Shivkumar Bhale as well as by Petitioner-Hospital by filing Revision Application (ULP) Nos.72 of 2022 and 48 of 2023 respectively. The Industrial Court has proceeded to dismiss both the Revision Applications by its judgments and orders dated 11 December 2023 which are subject matter of challenge in Writ Petition Nos.9437 of 2024 and 9443 of 2024.

7 Mr. Birajdar would appear on behalf of Petitioners in all the three Petitions. He would submit that the Labour Court has erred in allowing the Complaint filed by Respondent who was engaged merely on contract basis for a tenure of 89 days on account of non-availability of regularly selected candidate. That the Respondent did not have any right to seek continuation in service. That once regularly selected candidate (Ms. Ratnamala Sakpal) became available for being appointed on the post of Laboratory Assistant, services of the Respondent were rightly discontinued in terms of the stipulations in the appointment orders. That Respondent belongs to OBC category, whereas the concerned post is reserved for SC category and Ms. Ratnamala Sakpal is a SC candidate, who has participated in the regular selection process initiated vide advertisement dated 11 April 2009 by competing with 88 candidates and has been selected and issued appointment

letter dated 12 November 2009. That under such circumstances the Respondent ought to vacate the post temporary occupied by him till appointment of regular candidate. That Petitioner-Hospital is bound to follow the provisions of the Mahatma Gandhi Memorial Hospital Promotion Rules and Recruitment Rules and an irregularly engaged candidate like Respondent does not have any right to continue against regular post against which a regularly selected candidate is now become available for appointment. That the Labour Court has completely erred in not appreciating this aspect and has erroneously allowed the Complaint filed by Respondent that the Industrial Court has failed to correct the error committed by the Labour Court. In support of his contentions Mr. Birajdar would rely upon judgment of Constitution Bench in *Secretary, State of Karnataka and others vs. Umadevi and others*¹, *Indraprastha Medical Corporation Ltd. vs. NCT of Delhi and others*², and *Sandip Baliram Sandbhor and others vs. Pimpri Chinchwad Municipal Corporation and others*³.

8 So far as the orders arising out of Miscellaneous Criminal Complaint (ULP) No.8 of 2021 are concerned, Mr. Birajdar would submit that the Labour Court has erred in issuing process against Dr. Shivkumar Bhale, who was not even impleaded as party to the original Complaint or the Revision Application. That during pendency of challenge to the main order of the Labour Court before this Court in Writ Petition (Stamp) No.9056 of 2022, the Labour Court ought not to have precipitated the issue by issuance of

1 2006 II CLR 261

2 2006 (110) FLR 1176

3 2016 (3) Mh.L.J.562 : 2016 III CLR 270

process against Dr. Shivkumar Bhale. He would therefore submit that the orders arising out of Miscellaneous Criminal Complaint (ULP) No.8 of 2021 are also liable to be set aside.

9 The Petitions are opposed by Mr. Mohite, the learned counsel appearing for Respondent-employee. He would submit that the Labour and Industrial Court have concurrently held the termination order to be illegal and unlawful. He would submit that the conduct of Petitioner-Hospital is required to be borne in mind who have brazenly violated various orders passed by Labour and Industrial Court from time to time. He would submit that Respondent-employee had initially filed Complaint (ULP) No.463 of 2009 in which he had filed application for interim relief and the Industrial Court had granted ad-interim relief in favour of the Respondent restraining the Petitioners from terminating his services. Ad-interim order dated 13 November 2009 prohibited termination of service of the Respondent without following due procedure of law. That in open defiance to the said ad-interim order dated 13 November 2009, Petitioners proceeded to discontinue the services of the Respondent on account of which the Complaint (ULP) No.463 of 2009 filed by Respondent was rendered infructuous and Respondent was required to file fresh complaint bearing Complaint (ULP) No.218 of 2010 before Labour Court challenging the termination order dated 3 February 2010. That though the Labour Court allowed the Complaint on 19 November 2019, Petitioners have failed to implement the orders of the Labour Court for the last five long years. That considering the above conduct of the Petitioners in repeatedly violating the orders passed by Labour and Industrial Court, the

present Petitions may not be entertained and be dismissed on that ground alone.

10 Mr. Mohite would submit that Respondent is not a back-door entrant. He has participated in the selection process comprising of walk-in-interview and has thereafter been selected for appointment on the post of Laboratory Assistant. That the advertisement issued in the year 2006 or the appointment order issued to the Respondent did not indicate that the post was reserved for SC category. He would take me through the evidence on record and admission given in the cross-examination by Petitioners' witness Dr. Jitendra Patil about post not being reserved for SC category. He would submit that Ms. Ratnamala Sakpal could not have been appointed against the post occupied by Respondent on her appointment itself was illegal. That Respondent worked for more than 240 days in each calendar year and therefore his services could not have been terminated without following the provisions of section 25F of the Industrial Disputes Act (**ID Act**). He would submit that the Apex Court has repeatedly held that once the termination is found to be illegal, an order for reinstatement must follow with full back-wages. That the Labour Court has still reduced the back-wages to only 50%. He would therefore submit that no interference is warranted in the well considered decisions of Labour and Industrial Court. So far as Writ Petition Nos.9437 of 2024 and 9443 of 2024 are concerned, Mr. Mohite would submit that the Labour Court has rightly issued process against Dr. Shivkumar Bhale as no respect was shown to the orders passed by Labour Court. That Respondent is kept away from service since the year 2010 and despite his Complaint being allowed in the year 2019

Petitioners are failed to implement the said order for the last five long years, in such situation initiation of criminal proceedings was warranted against the Petitioners. He would therefore pray for dismissal of all the three Petitions.

11 Rival contentions of parties now fall for my consideration.

12 Respondent's initial engagement as Laboratory Assistant was effected by order dated 15 May 2006. The said appointment was held for the period from 9 May 2006 to 5 August 2006 on temporary basis. The appointment order contained a specific stipulation that the Respondent was to be relieved immediately on completion of period of 89 days or on availability of regular employee. It does appear that the initial engagement of Respondent was made with a view to take care of exigency on account of non-availability of regular employee. Petitioners' witness Dr. Nitin Vinod Gajjar, the then In-charge Medical Superintendent of the Hospital has given evidence stating that the Employees State Insurance Corporation (**ESIC**) had initiated review of posts in ESIC Hospitals in the year 2004 on the basis of their bed-strength. During pendency of the said review undertaken by ESIC, the Committee of Board of Management had decided filling of various vacant posts in Class III and Class IV categories arising out of retirement etc. on temporary basis as regular recruitment was postponed in the light of the said review to be conducted by ESIC. In order to meet this exigency, it appears that Notice dated 19 April 2006 was issued inviting applications for the posts of X-ray Technician and Laboratory Assistant. The advertisement itself clarified that the engagement was temporary in nature and on contract basis for period of 89 days till

availability of regular candidate. This position is not disputed by Respondent who has also averred in his Complaint in paragraph 4(a) as under:

“a. The complainant submits that sometime in the month of April, 2006 the complainant come across notice dated 19th April, 2006 displayed by the respondents for inviting applications for walk-in-interview for the post of X-ray technician and Laboratory Assistant for 89 days basis (on contract) till regular candidate is appointed and hence the complainant has submitted his application for the post of Laboratory assistant for open category and accordingly the complainant was selected for the post of Laboratory Assistant wide Hospital order dated 8th May, 2006 w.e.f. 9th May, 2006 but the appointment letter dated 17th May, 2006 was issued for a period of 89 days i.e. from 9th May, 2006 to 5th Aug, 2006. Here to annexed and marked Exh "A" Colly are the copies of Hospital order dated 8th May 2006 and appointment letter dated 17th May, 2006.”

13 Thus Respondent was fully aware that his appointment was only till availability of regularly selected candidate. The stipulations in the appointment order also clarify this position.

14 Petitioners' witness further gave evidence that the Staff Review Committee/Panel of ESIC submitted report in 2007 which was implemented in April 2009 after obtaining necessary approvals and that under the Staff Review, total three posts of Laboratory Assistant were sanctioned and one of the posts was reserved for SC category. The said SC category post was advertised in April 2009 by conducting regular selection process. Total 88 candidates participated in the selection process initiated for filling of one SC

category post of Laboratory Assistant and this is how Ms. Ratnamala Sakpal came to be selected and appointed as regular Laboratory Assistant vide appointment order dated 12 November 2009.

15 The Labour Court completely misdirected itself by not appreciating the above position and went into the aspect of completion of 240 days of service and violation of provisions of section 25F of the ID Act. The Labour Court ought to have appreciated the position that the tenure of the last appointment order dated 4 November 2009 itself was upto 1 February 2010 and that therefore it was not necessary to issue any notice to the Respondent. There is no termination of his appointment. His engagement came to an end on account of expiry of its tenure on 1 February 2010.

16 The Labour Court also failed to appreciate the position that the Petitioner-Hospital cannot engage two persons against one sanctioned post. The Petitioner-Hospital led specific evidence that only three posts of Laboratory Assistant are sanctioned out of which one was reserved for SC category and against which Ms. Ratnamala Sakpal (SC candidate) has been selected and appointed. This left no post which could be occupied by the Respondent. Since Ms. Ratnamala Sakpal was issued appointment letter dated 12 November 2009, Respondent was required to vacate the post and accordingly he has not been given fresh appointment after 3 February 2010. In my view therefore, Respondent had no right to seek continuation of his service after appointment of Ms. Ratnamala Sakpal vide order dated 12 November 2009. The Labour Court has completely misdirected itself by

treating the act of Petitioner-Hospital in not issuing fresh appointment letter to Respondent as termination of his services and by examining such nonexistent termination on the touchstone of provisions of section 25F of the ID Act.

17 Even if it is assumed that the letter dated 3 February 2010 is to be considered as Respondent's termination and even if provisions section 25F of ID Act were required to be followed, in my view the same did not create any right in favour of Respondent to seek reinstatement in service. For non-compliance with provisions of section 25F of the ID Act, the Labour Court could not have directed Respondent's reinstatement in service ignoring the position that such direction would result in appointment of two persons against one sanctioned post. These observations however do not mean that provisions of section 25F of the ID Act are applicable to the present case. At the time of issuance of last appointment order dated 4 November 2009 itself Respondent knew that he had to vacate the post on 1 February 2010 and therefore there was no requirement for issuance of any prior notice to him.

18 The Labour Court has erred in holding that Petitioner-Hospital failed to demonstrate that entry of Respondent was through backdoor. While recording such erroneous finding, the Labour Court failed to appreciate the Complaint of Respondent was not for regularization/permanency in service. Therefore the manner of his initial entry into service becomes irrelevant. The Complaint was only for reinstatement in service, which prior to discontinuation was on pure temporary and contract basis. In any case, it

cannot be stated that engagement made on contract basis for 89 days on walk-in-interview can be treated as an appointment after following due process of selection. The initial engagement of Respondent was through a mere notice and no advertisement was issued for making regular appointment. All eligible and interested candidates may not apply after noticing that the engagement was on contract basis for 89 days only. As against the Notice issued at the time of initial engagement of Respondent, there was full-fledged advertisement at the time of selection of Ms. Sakpal wherein 88 candidates participated. Therefore, it cannot be stated that the initial engagement of Respondent was made after adhering to the requirements of Articles 14 and 16 of the Constitution of India.

19 The Labour Court has also completely misdirected itself by going into the issue of reservation of post. The post notified before Respondent's engagement was not for making a regular appointment. Therefore, it was not necessary to indicate the category for which it was reserved at the time of Respondent's engagement or to follow reservation roster. Therefore, mere non-indication of the exact reservation category in the 2006-Notice or in the appointment order of the Respondent does not mean that the Petitioner-Hospital could not have filled up the post identified for SC category under reservation roster on regular basis by appointment of Ms. Ratnamala Sakpal.

20 The Industrial Court has failed to exercise jurisdiction vested in it under section 44 of the MRTU and PULP Act by correcting the gross error committed by the Labour Court. The Industrial Court ought to have

appreciated that the impugned order passed by the Labour Court would result in appointment of two persons against one sanctioned post and therefore it ought to have set aside the order passed by the Labour Court. Therefore, the order passed by the Industrial Court on 15 December 2021 dismissing the Revision Petition filed by Petitioner-Hospital is also unsustainable.

21 In *Sandip Baliram Sandbhor and others* (supra) this Court has reiterated the well settled principle that an entry into public employment must confirm to Articles 14 and 16 of the Constitution of India and that clause 4-C of the Model Standing Orders is not a reason for directing reinstatement. This Court held in paragraph 34 of the judgment after considering the judgment of the Constitution Bench in *Umadevi and others* (supra) as under:

“34. While answering an objection to the locus standi of the Writ Petitioners in challenging the repeated issue of an ordinance by the Governor of Bihar, the exalted position of rule of law in the scheme of things was emphasized, Chief Justice Bhagwati, speaking on behalf of the Constitution Bench in *Dr. D.C. Wadhwa & Ors. v. State of Bihar & Ors.* (1987 (1) S.C.R. 798) stated:

“The rule of law constitutes the core of our Constitution of India and it is the essence of the rule of law that the exercise of the power by the State whether it be the Legislature or the Executive or any other authority should be within the Constitutional limitations and if any practice is adopted by the Executive which is in flagrant and systematic violation of its Constitutional limitations, petitioner No.1 as a member of the public would have sufficient interest to challenge such practice by filing a writ petition and it would be the Constitutional duty of this Court to entertain the writ petition and adjudicate upon the validity of such practice.”

Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore,

consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. **If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued.** Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the Constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the Constitutional and statutory mandates.”

(emphasis added)

22 After considering the overall conspectus of the case I am of the view that the orders passed by the Labour Court and Industrial Court relating to Complaint (ULP) No.218 of 2010 and Revision Application (ULP) No.35 of 2021 are unsustainable and liable to be set aside.

23 Once the order of the Labour Court dated 29 November 2019 as confirmed by the Industrial Court by order dated 15 December 2021 is set aside, nothing would survive in Miscellaneous Criminal Complaint (ULP) No.8 of 2021 filed for non-implementation of Labour Court order dated 29 November 2019. Consequently, the orders dated 13 May 2022 passed by the Labour Court and order dated 11 December 2023 passed by the Industrial Court are also liable to be set aside.

24 Though all the three Writ Petitions need to be allowed, it must be observed here that the Petitioners are rather negligent in prosecuting the litigation. The Order directing reinstatement of Respondent was passed by the Labour Court on 29 November 2019. Petitioners failed to challenge the same for almost 2 years and made Respondent to file Miscellaneous Criminal Complaint (ULP) No.8 of 2021 for non-implementation of Labour Court's Order, thereby making him bear unnecessary expenses. Again, when the Revision Application (ULP) No.35 of 2021 was dismissed on 15 December 2021, Petitioners merely lodged Writ Petition (Stamp) No. 9056 of 2022 on 11 April 2022 and did not even bother to get the same numbered or move before the Court for over one year. Writ Petition (Stamp) No. 9056 of 2022 still continues to be unnumbered. Instead, they kept on unnecessarily litigating in respect of Misc. Criminal Application by filing Revision Application (ULP) Nos.72 of 2022 and 48 of 2023 and thereby made Respondent unnecessarily spend on litigation. Curiously instead of moving main Writ Petition (Stamp) No. 9056 of 2022, Petitioners showed more interest in prosecuting Writ Petition Nos. 9433 and 9437 of 2024, which were circulated by them on 11 July

2024. It is this Court which then noticed that the main Writ Petition (Stamp) No. 9056 of 2022 challenging the orders for reinstatement was still pending and was never moved and directed the said Petition to be listed along with the other two Petitions. This is how Writ Petition (Stamp) No.9056 of 2022 got listed and heard at the instance of the Court. If Petitioners were to take timely steps in challenging the Labour Court's order and thereafter diligently pursue Writ Petition challenging the Industrial Court's Order, Respondent would have been spared of unnecessary litigation expenses in filing criminal proceedings relating to failure of part of Petitioners in implementation Labour Court's Order. More importantly, due to Petitioners' conduct, Respondent is kept on hope of reinstatement since November 2019 rather than concentrating on securing alternate employment. Therefore, though I am inclined to allow all three petitions filed by Petitioners, Respondent need to be compensated for negligent approach on the part of Petitioners in prosecuting the litigation. Therefore, Petitioner-Hospital shall pay to Respondent costs of Rs. 50,000/-.

25. All the three Writ Petitions accordingly succeed, and I proceed to pass the following order:

ORDER

(i) Judgment and order dated 29 November 2019 passed by 8th Labour Court, Mumbai in Complaint (ULP) No.218 of 2010 as well as judgment and order dated 15 December 2021 passed by the Industrial Court, Mumbai, in Revision Application (ULP) No.35 of 2021 are set aside.

(ii) Complaint (ULP) No.218 of 2010 stands dismissed.

(iii) Consequently, order dated 13 May 2022 passed by Labour Court in Miscellaneous Criminal Complaint (ULP) No.8 of 2021 as well as judgment and order dated 11 December 2023 passed by Industrial Court, Mumbai in Revision Application (ULP) Nos.72 of 2022 and 48 of 2023 are also set aside.

25 With the above directions, all the three Writ Petitions are **allowed**. Rule is made absolute. However, for the reasons recorded above, Petitioner-Hospital shall pay costs of Rs. 50,000/- to Respondent within six weeks.

(SANDEEP V. MARNE, J.)

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by
SUDARSHAN
RAJALINGAM
KATKAM
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