
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1125 OF 2024

Riyaz Ismail Machhiwala & Anr.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Viraj Maniar *a/w. Sneha Patil i/b. Maniar Srivastava Associates, Advocates for the Petitioners.*

Dr. Birendra Saraf, AG *a/w. Prachi Tatake, Addl.G.P. for Respondent-State.*

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : OCTOBER 09, 2024

P. C.

1. The above Writ Petition was disposed of by this Court vide its Order dated 7th August, 2024. By the said Order, this Court directed Respondent No.1 and/or Respondent No.2 to refund to the Petitioners the sum of Rs.2,66,75,750/- within a period of eight weeks from the said date i.e. on or before 3rd October, 2024. It was also directed that if the aforesaid amount is refunded within the stipulated period, the Government shall not be liable to pay any interest on the aforesaid amount. However, if the aforesaid amount

was not refunded on or before 3rd October, 2024, the Government would be liable to pay interest on the said amount of Rs.2,66,75,750/-, at the rate of 10% per annum, simple interest, from 4th October, 2024 till payment and/or realization. We had therefore kept the matter on Board for reporting compliance.

2. When the matter had come up on 4th October, 2024, we were informed by the Petitioners that the amount has not yet been refunded. We had therefore kept the matter today for the learned AG to take instructions in the matter because we were of the opinion that compliance of our orders cannot wait indefinitely.

3. Today, an affidavit has been filed dated 9th October, 2024. In the said affidavit, the explanation for not paying the aforesaid amount is that the Government was taking steps or considering taking steps for challenging the orders passed by this Court. However, the learned AG has made a statement to the Court that the amount of Rs.2,66,75,750/- will be paid to the Petitioners within a period of one week from today. He has further stated that the order passed in this Writ Petition has also been challenged before the Hon'ble Supreme Court by filing a Special Leave Petition (SLP). This payment is being made subject to the outcome of the said SLP and the Petitioners herein would have to refund the aforesaid amount in

the event the State succeeds before the Hon'ble Supreme Court. We accept the statement made by the learned AG on behalf of the State.

4. As per the statement made by the learned AG, we direct that the payment of Rs.2,66,75,750/- shall be made to the Petitioners on or before 16th October, 2024. It is made clear that this payment is made without prejudice to the rights and contentions of the State in the SLP filed assailing the order passed by this Court on 7th August, 2024. The Petitioners will have to abide by any order for refund or any further orders passed by the Hon'ble Supreme Court in that regard, if any.

5. To ensure compliance of today's order, we now place the above matter on **17th October, 2024**.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B.P. COLABAWALLA, J.]