



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL WRIT PETITION NO. 6536 OF 2008

Shri. Hemant Sudam Patel,
Age: 39 years, Occu. Nil,
R/o. 20-B, Gulmohar Colony,
Gondur Road, Deopur, Dhule.

...PETITIONER
(Ori. Complainant)

VERSUS

- 1] **M/s. Isuta Electronic (India) Ltd,**
Bafna Warehousing Complex,
Shed No.1, Gut No.74,
Parola Road, At Balapur,
Post: Fagne, Tal. Dist. Dhule.
- 2] **Shri. Sumatiprasad Mishrilal Bafna,**
M/s. Isuta Electronic (India) Ltd.,
3, Ajinkya Mansion, 1st Floor,
Pandita Ramabai Road,
Chopatty, Mumbai.
- 3] **M/s. Isuta Electronic (India) Ltd.,**
3, Ajinkya Mansion, 1st Floor,
Pandita Ramabai Road,
Chopatty, Mumbai.
- 4] **Shri. S. Chandramohan,**
Manager,
3, Ajinkya Mansion, 1st Floor,
Pandita Ramabai Road,

Chopatty, Mumbai.

- 5] **Shri. Yogesh S. Shinde,**
M/s. Isuta Electronic (India) Ltd,
Bafna Warehousing Complex,
Shed No.1, Gut No.74,
Parola Road, At Balapur,
Post: Fagne, Tal. Dist. Dhule.

**...RESPONDENTS
(Ori. Defendants)**

...

Mr. Amol S. Sawant, Advocate for Petitioner.
Respondent Nos. 1 to 5 are served.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 09th SEPTEMBER 2025.
PRONOUNCED ON : 29th SEPTEMBER 2025.

JUDGMENT :-

1. Heard the learned Advocate for the petitioner.
2. Inspite of service, none appears for the Respondents.
3. Rule. Rule made returnable forthwith. Writ Petition is taken up for final disposal at the stage of admission.
4. This writ petition arises out of Judgment and Order dated 29th July 2008, passed by the learned Member, Industrial Court, Dhule in Revision

Application (ULP) No. 09 of 2008. By way of impugned Judgment and Order, the learned Member, Industrial Court has set aside the order passed by the learned Labour Court, Dhule, directing the respondent to cease and desist from indulging in unfair labour practices and to reinstate the present petitioner with continuity in service with back wages.

5. The petitioner was working in the service of Respondent No.1 as an Assembler. The respondent No.1 is the Company registered under the Companies Act. Respondent No.2 is the Chairman, Respondent No.3 is the Manager at Bombay Office, Respondent No.4 is the Personnel Manager and Respondent No.5 is the Manager of the Company at Balapur Fagne Unit of the said company.

6. The parties are referred to as per original status in complainant for the purpose of convenience.

7. The facts, in short, giving rise to the present writ petition are that the complainant was appointed as Assembler in the Company in 1994.

He continuously worked for more than 240 days in the year. On 1st April 2004, suddenly the respondent No.4 and 5 asked the complainant not to come on duty and orally informed that his services are terminated. He immediately sent a telegram stating he was not allowed to work and requested to allow him to join duty. Since there was no reply, he sent a notice through lawyer on 12th April 2004 requesting the respondent No.4 to allow him to join the duty. In spite of the same, there was no response. However, the complainant therefore again sent communication on 28th May 2004. It is stated in the said letter that on 25th May 2004, he was called for discussion; however, the same was only a farce. An alleged settlement letter was placed before him, and he was forced to sign the said letter. One demand draft for an amount of Rs.17,632/- was given to him. He was threatened to accept the said demand draft. He accepted the demand draft under the protest.

8. Thereafter, the respondent sent a notice through a lawyer on 29th May 2004. It is mentioned in the notice that on 20th March 2004, the complainant was transferred to the Branch at Nerul, and was directed to

report to the duty on 10th April 2004. It was stated that since the complainant did not join at Nerul, he was terminated. The complainant again issued notice through a lawyer on 4th June 2004 denying the facts stated in the notice by the respondent. In spite of that, there was no positive response from the Company. The complainant therefore approached the learned Labour Court by filing ULP Complaint No.08 of 2004, praying for an order to respondent to cease and desist from unfair labour practices and for reinstatement, compensation etc.

9. It is the defence of the Company that since the complainant did not join at the place of transfer, he accepted the Demand Draft towards full and final settlement. It is denied that the resignation was taken forcefully and that the complainant was working for more than 10 years and completed 240 days in every year.

10. In the complaint, the learned Labour Court accepted the evidence of the complainant. It is specifically observed that there is no transfer order issued. The demand draft was accepted under protest, etc., and

allowed the complaint.

11. The learned Industrial Court, in Revision Application filed by the Company, held that the complainant did not join the duty at the place of transfer. There is no written order of appointment etc. and set aside the judgment and order passed by the learned Labour Court.

12. The respondent has filed an affidavit-in-reply in this petition. It is the stand of the Company that the Company was in the process of closing the unit at Balapur because of the reduction of the workload at Balapur unit that the employees were transferred. All the technical staff was transferred to Nerul unit. All other employees have joined at the place of transfer. Only the complainant refused.

13. Mr. Sawant, the learned Advocate for the complainant, argued that the fact that the complainant was working as Assembler since 1994 is not denied. He was prevented from signing the muster and reporting to duty. Therefore, a telegram was sent. Thereafter, other communications

were exchanged. There is no reply to the notice specifically sent by the complainant, and it is therefore he approached the Labour Court. The documents produced by the complainant clearly established his case. The respondent-company could not produce any document. In the cross-examination of the Manager of the Company that he accepted that at Nerul there is only administrative office and not a unit. There is no transfer order on record. No procedure is followed. No proceeding to close down the unit at Balapur was ever started. He thus submits that the stand of the company is totally concocted. The learned Labour Judge had rightly appreciated the evidence and the case of the complainant and passed the order. There was no illegality in the order. The learned Member, Industrial Court has committed serious illegality by allowing the revision. He thus prays for allowing the writ petition.

14. Initially the respondents appeared and filed written statement. However, thereafter inspite of notice through paper proclamation, none appeared for the respondents. Thus, there is no argument from the respondents side.

Ethape

15. On going through the submissions of learned Advocate for the complainant, this Court has seen the material on record. It is seen that the complainant was working in the establishment of the respondent at Balapur. There is no specific reply to the notice of the complainant dated 4th June 2004. There is document on record to show that the Employees' Provident Funds (EPF) Scheme was made applicable, showing that the complainant was permanent employee. There is salary certificate issued to the complainant dated 27th January 2004. In the cross examination, he clearly stated that there is no unit at Nerul. No written termination order was issued. He denied that he was given an amount of Rs.17,632/- towards full and final settlement.

16. One Mr. Yogesh Shinde, the factory manager, is examined by the respondent company. In the cross-examination, this witness accepted that the complainant was working since prior to 1996. Employees' State Insurance (ESI) of the complainant was being paid by the Company. There was no any inquiry ever made of the complainant. He further accepted that there was no notice given to the authorities that the

company was to be closed. He accepted that on 1st April 2004, the complainant had been on duty. He had sent a telegram stating that he was not allowed to join the duty.

17. The learned Labour Judge has categorically observed that the complainant has proved that he was working for more than 10 years and completed 240 days' in every year. No notice is given to any of the employees about the closure of the unit. No such notice is given even to the authority. He further observed that the Company failed to produce on record any evidence to show that the manufacturing unit is available at Nerul. There is no specific reply by the Company, and the order was passed. It is specifically observed that no any transfer order is on record. Learned Labour Judge therefore observed that the stand taken by the company is false and concocted and allowed the complaint.

18. The learned Industrial Court observed that the complainant admitted that he received the amount. It is further observed that the complainant was temporarily appointed. He accepted the case of the

respondent that workload in the unit of Balapur was reduced and there was no work available, and therefore all the employees from the said unit were transferred to another unit at Nerul. On the basis of one solitary admission that the complainant is ready to go to duty, it was held sufficient to dismiss the complaint. It accepted the amount of Rs.17,632/- was towards full and final settlement. Now, there is no work available of technician at Balapur. It is held that the order of the Labour Court was perverse and against the record. It is recorded that the appointment was on contract basis. By this observation, the learned Industrial Judge allowed the revision.

19. Looking to the evidence before the Labour Court, this Court finds that the observations of the learned Member, Industrial Court so far as transfer of the complainant to Nerul is without any material. The observation that the work at Belapur was reduced is also not correct looking to the cross-examination of the Manager of the company. There was no case of the company that the complainant never demanded

appointment order in writing. It is seen that the learned Industrial Court committed an error in accepting the theory of transfer put up by the company in absence of any record to that effect. The observation that a letter was issued by company transferring the unit at Nerul is also without record. Though there is nothing in the deposition of the Manager that the company does not exist at Dhule is observed by the learned Member. This is again totally against the record. The main admission of the complainant witness is ignored that there is no notice given of the closure of the unit to any of the authorities. This court thus clearly finds that the findings recorded by the learned Industrial Court are totally against the record. There was no perversity or illegality in the order passed by the learned Labour Judge and still the order is set aside without sufficient material. This court finds that the impugned order therefore deserves to be quashed and set aside by allowing the writ petition. Hence, the following order:

ORDER

- (i) The Writ Petition stands allowed.

(ii) The impugned order dated 29th July 2008 passed by the learned Member, Industrial Court, Dhule in Revision Application (ULP) No. 09 of 2008 is quashed and set aside.

(iii) The order passed by the learned Judge, Labour Court, Dhule in Complaint ULP No. 08 of 2004 dated 20th December 2007 is restored. Consequences to follow.

(iv) The Rule made absolute in above terms.

[KISHORE C. SANT, J.]