



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3880 OF 2020

Ahmednagar Taluka Dudh Vyavsayik Wa Prikriya Sangh Ltd
Ahmednagar Through Its Vevival

VERSUS

Sarva Shramik Sangh Through Its President And Others

- Mr. G. K. Naik Thigale, Advocate for the Petitioner
- Mr. P. S. Gaikwad a/w Mr. Darshan Sahuji, Advocate for Respondent Nos 1 to 5, 7, 9 and 10
- Mrs. M. L. Sangit, AGP for the Respondent Nos. 11 and 12/State
- Mr. D. R. Kale, Advocate for the Respondent No. 13

CORAM : R. M. JOSHI, J

DATE : SEPTEMBER 15, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the judgment and order dated 15.04.2013 passed by the learned Industrial Court, Ahmednagar in Complaint (ULP) No. 46/2007 directing payment of unpaid wages and the final dues along with interest to the Respondents/Workmen.

3. The facts, which led to the filing of this Petition, can be narrated in brief as under:

Petitioner Ahmednagar Taluka Dudh Sangh (for

short 'Sangh') claims that in the year 2005, District Level Sangh decided to divide itself into 7 taluka level societies, which were the major contributors for purchase of property. Since such division was effected, there was obligation on the taluka societies to absorb employees, as such, 27 workers of the District Federal Society came to be assigned to Petitioner/Sangh. Whereas, other employees had obtained voluntary retirement. According to Petitioner, in the year 2005 election of Federal Society were due and pending, however, on account of objection being raised to the validity of the voters list, proceedings were filed in the High Court. During the pendency of the elections, Board of Administrator came to be constituted and though such Board could not have been continued for a period of more than six months, it illegally continued the affairs of the Trust for more than six years. At later point of time, liquidator came to be appointed. It is claimed by the Petitioner that Board or the Government appointed liquidator did not take any pains to challenge the order passed by the learned Industrial Court, which is *ex parte* in nature. It is claimed by the Petitioner that the order came to be passed without

considering the factual aspects and the same is in gross contravention of the provisions of the statute. On these amongst other grounds set out in the Petition, challenge is raised to the order passed by the Industrial Court.

4. Learned Counsel for the Petitioner submits that admittedly Administrator so also Liquidator came to be appointed and as per the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short '**the Act**'), once liquidator is appointed, the proceedings cannot be permitted to be continued in any Court of law sans permission of the liquidator. It is further sought to be argued that the Industrial Court has failed to take into consideration the various material aspects with regard to the claim of the complainant before granting relief to the complainant. Reference is made to the previous litigation entered into in respect of the election of the Society etc. It is claimed that the payments of the workmen were already made as recorded by this Court in order dated 15.03.2022. The sum and substance of the arguments of the learned Counsel for the Petitioner is that since

the Petitioner was not represented before Industrial Court, it is a fit case for setting aside the order passed by the Industrial Court and to relegate the matter back to the said Court for decision afresh. Reference is made to Rule 91 of the Maharashtra Co-operative Societies Rules, 1967 (for short '**Rules of 1967**') in order to argue that there could be no interest at the rate of 18% be granted on the amounts directed to be paid. It is his submission that once the Society is under liquidation, it is the liquidator who decides the amount of interest to be paid. It is his further submission that in any case since now the Society is revived and as such, Society needs to be given an opportunity to contest the complaint.

5. This contention came to be opposed by the learned Counsel for Respondents/Original Complainant on the ground that the judgment and order passed by the Industrial Court has been delivered before the appointment of the liquidator. Thus, according to him, question of application of any embargo to the proceeding on the appointment of the liquidator to the continuation of the proceedings does not arise. It is

his submission that in any case the workmen were entitled for their unpaid wages so also legal dues and for no fault of the workmen, the judgment and order, which is passed in the year 2013, cannot be set aside after 12 years thereof and it would be unjust to direct the complainant to undergo the rigors of process of law once again. It is his submission by referring to the order impugned that the Industrial Court has rightly taken into consideration the relevant aspect and has held that the Society has engaged in unfair labour practices.

6. At the outset, it needs to be recorded as to the relief granted by the learned Industrial Court in the order impugned, which reads thus:

1) The Complaint (U.L.P.) No. 46/2007 is allowed.

2) It is hereby declared that the Respondents have indulged in and continued to indulge in unfair labour practice under Item-9 and 10 of Sch.IV of the MRTU & PULP Act, 1971.

3) The Respondents are hereby directed to cease and desist from continuing to engage in unfair labour practice within the period of 3 months from today by making the

payment of unpaid wages from August, 2006 onwards alongwith arrears shown in Annexure-B to the complaint and the amount of gratuity alongwith interest thereon at the rate of 18% p.a.

4) The Respondents are also directed to pay cost of the proceeding to the extent of Rs. 1,000/- to the complainants.

7. Record indicates that complainant filed complaint before Industrial Court under Item 9, Scheduled IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 claiming that they have rendered continuous service ranging between 15 to 20 years and that for about last 2 to 3 years, the employees are being pressurized to resign from the employment and are compelled to stay home without payment of salary. It is also alleged that by way of pressurizing tactics and to cause harassment, employees were transferred from one place to another. It is specifically claimed that earned wages of the employees are not paid. Complainant also attempted to ventilate their grievance by making representations to the Society so also to the Government Officials but in vain. The entire contention of the complainants has gone unchallenged before the

Industrial Court.

8. There is no dispute about the fact that the Respondent in the said complaint were duly served with notice and has also caused appearance through Advocate before the Industrial Court. It is however further matter of the fact that the complaint was not contested on merit by Respondents therein. Record indicate that the complaint came to be filed in the year 2007 and Industrial Court decided the said complaint on 15.04.2013. Thus, it can be said that sufficient opportunity was given to Respondents therein to defend their case. It also cannot be held that the Industrial Court has shown any haste much less undue haste in passing impugned judgment. Thus, as a matter of fact it was the Respondents therein who, on their own accord, failed to resist the complaint and evidence led by the complainant went without challenge. There is nothing on record to indicate that Respondents were prevented from any reason beyond their control from appearing before the Court. The Respondents or Board of Administrator appointed were duty bound to appear in the Court of law. In such circumstances, the Industrial Court was

fully justified in passing impugned judgment and order.

9. It is sought to be argued on behalf of the Petitioner that there is appointment of the Board of Administrator who were responsible for attending the proceedings and to defend the same on behalf of Society. If it is the case of the Petitioner that some persons were responsible for not defending the case before the Industrial Court, in no circumstances the workmen could be held responsible for the same in any manner whatsoever. It would always be open for the Petitioner to take appropriate action against the concerned persons who were negligent in not defending the case before the Industrial Court but for no fault of workmen they could be made to suffer for the same. In any case, to call upon the workmen to undergo the rigors of the process of law after 12 years of passing of the impugned judgment and after 18 years of filing of the complaint, would be wholly unjust and hence, this Court is not inclined to accept the contention of the Petitioner.

10. In any case, perusal of the order impugned indicates that the Industrial Court has duly taken into

consideration the grievance made by the workmen about non payment of unpaid wages. Even in this Petition, Petitioner was not able to show that the order passed by the Industrial Court is contrary to the material on record or facts or is unjustifiable. Merely because there were some disputes in the management of the Society and elections were not held, which resulted into appointment of the administrator, the same would not become a ground for setting aside the order passed by the Industrial Court.

11. In so far as appointment of the liquidator is concerned, admittedly, liquidator came to be appointed on 11.10.2013, however, the impugned judgment and order came to be passed on 15.04.2013. Thus, it is clear that at the time of appointment of the liquidator, the proceedings of the complaint before the Industrial Court were concluded already. As such, appointment of the liquidator in the Petitioner Society becomes irrelevant for decision of the present Petition.

12. Finally, it is sought to be argued that in view of Rule 91 of the Rules of 1961, the interest on the amount due to be paid under liquidation is required

to be decided by Register. Even it could decided so by Registrar in liquidation, question of this Court causing interference in the order impugned passed by the Industrial Court of granting interest does not arise. More over, admittedly, Society is now revived and as such, the rules applicable to the Society under liquidator has no application to the present case. Similarly, grant of interest on unpaid wages and employment dues unjustifiable returned is correct exercise of discretion by the Industrial Court.

13. Having regard to the above facts and more particularly, in view of the fact that the impugned order decides the right of the workman to get unpaid wages and legal dues, this Court finds no perversity or any justification to cause interference in the impugned judgment and order. In the result, Petition stands dismissed.

(R. M. JOSHI, J.)