

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.66 OF 2011

IN

WRIT PETITION NO.8403 OF 2010

Maharashtra Industrial Development Corp. and Ors. ...Petitioners

Versus

The General Secretary and Anr. ...Respondents

WITH

INTERIM APPLICATION NO. 11877 OF 2024

WITH

REVIEW PETITION (L) NO. 1 OF 2015

AND

LETTERS PATENT APPEAL NO.145 OF 2011

IN

WRIT PETITION NO.8403 OF 2010

The General Secretary, MIDC Employees Union and Anr. ...Petitioners

Versus

Mahrashtra Industrial Development Corp. and Ors. ...Respondents

Mr. Prashant Chawan Senior Adv. a/w Ms. Komal Jadhav Adv. i/by Navdeep Vora & Associates for M.I.D.C. -Appellant in LPA No. 66 of 2011 & for Respondent Nos. 1 to 3 in LPA No. 145 of 2011.

Mr. Bennet D'costa, Adv. Jignasha Pandya, Adv. Sushant Dekhane for the Respondents in LPA/66/2011 & wp 8403/10, for applicant in IA 11877/24, for Petitioner in RPL 1/2015 and for Appellant in LPA 145/11.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 13 NOVEMBER 2025

P.C.

1. This Letters Patent Appeal assails the impugned order dated 19 January 2011 passed by the learned Single Judge on Writ Petition No.8403 of 2010 while admitting the writ petition. The said order is required to be noted which reads thus:-

- “1. Rule.
2. By way of interim relief the following order is passed:
 - (i) The petitioner will implement the award with respect to the benefits of permanency inasmuch as the pay scale and consequential benefits as awarded by the Industrial Tribunal must be paid to the workmen concerned in the Reference, from the date of the award i.e. from 23.7.2010.
 - (ii) The benefits which have been awarded from the date of the demand notice i.e. from 20.3.2007 till 22.7.2010 shall be deposited in this Court within eight weeks from today.
 - (iii) Once this amount is deposited, it shall be invested in a nationalised bank initially for a period of three years, to be renewed thereafter.
 - (iv) The direction to grant permanency to the workmen is stayed pending the Writ Petition.
 - (v) In case the petitioner advertises for posts of Pump Operators, Helpers, Clerks, Fitter Inspectors and Fitters, the workmen concerned in the Reference may apply for those posts without prejudice to their rights and contentions in this petition. Their applications will be considered by the Petitioner irrespective of the age limit prescribed for the particular post.
 - (vi) Any outsiders who may be appointed to the posts, if advertised, shall be informed that their appointment is subject to the result of this petition.”

2. We find from the record that this appeal was admitted by the Division Bench of this Court by an order dated 21 June 2011 and fixed the proceedings for final hearing peremptorily on 17 October 2011. However, on Civil Application No.87 of 2011, the Division Bench on 21 June 2011 has passed the following interim order which was to operate till the final disposal of this appeal:

- “ Heard the advocates appearing in the matter.
2. Mr. Talsania, the learned counsel for the appellants, submitted that the order of the learned Single Judge be stayed if not fully at least in part. It is submitted by him that when the learned Single Judge has stayed the award regarding permanency, no other order should have been passed. The learned counsel for respondent No.1 however submitted that the employees are serving within the range of last 8-15 years and this is nothing but exploitation of the employees to a great extent. It is submitted that even though there are clear vacancies, the appointment is made on such clear vacancies by employing a person on a fixed salary which is below minimum wages. Considering the facts and circumstances of the case, we are of the opinion that since the concerned employees are serving since more than 8 to 15 years, as the case may be,

it would be just, proper and equitable to direct the appellant Corporation to pay them the pay scale given to the other regular employees as the employees are doing the same work. Said benefit of regular pay scale is to be given with effect from 01.06.2011. The appellant Corporation shall continue to pay such pay-scales till the appeal is finally decided and subject to further orders in this behalf. Rest of the order of the learned Single Judge regarding giving consequential benefits as well as depositing the amount in Court as per paragraph 2(ii) is stayed. It is clarified that the said payment will be subject to the outcome of the appeal. It is clarified that the order passed by the learned Single Judge on speaking to the minutes dated 31.1.2011 is not disturbed and is kept as it is.

3. The civil application is disposed of accordingly. No order as to costs.”

3. During the pendency of this appeal, Civil Application No.54 of 2017 was filed on behalf of the respondent (*The General Secretary, M.I.D.C. Employees Union*) seeking direction that the MIDC be directed to pay house rent allowance of 5% of basic and DA to the concerned workmen and annual leave with wages as per the Factories Act, 1948 from their date of joining. The said Civil Application was disposed of by an order dated 12 March 2020 whereby the Court observed that it is not inclined to grant such reliefs to the workmen. The said order is required to be noted which reads thus:

“1. On 19th January, 2011, the learned Single Judge of this Court (Coram : Smt. Nishita Mhatre, J.) has inter alia passed the following Order :

“1. Rule.

2. By way of interim relief the following order is passed:

(i) The petitioner will implement the award with respect to the benefits of permanency inasmuch as the pay scale and consequential benefits as awarded by the Industrial Tribunal must be paid to the workmen concerned in the Reference, from the date of the award i.e. from 23.7.2010.

ii) The benefits which have been awarded from the date of the demand notice i.e. from 20.3.2007 till 22.7.2010 shall be deposited in this Court within eight weeks from today.

(iii) Once this amount is deposited, it shall be invested in a nationalised bank initially for a period of three years, to be renewed thereafter.

- (iv) The direction to grant permanency to the workmen is stayed pending the Writ Petition.
- (v) In case the Petitioner advertises for posts of Pump Operators, Helpers, Clerks, Fitter Inspectors and Fitters, the workmen concerned in the Reference may apply for those posts without prejudice to their rights and contentions in this petition. Their applications will be considered by the Petitioner irrespective of the age limit prescribed for the particular post.
- (vi) Any outsiders who may be appointed to the posts, if advertised, shall be informed that their appointment is subject to the result of this petition.”

2. The above Letters Patent Appeal No. 66 of 2011 was preferred therefrom by the Respondents, which Appeal is admitted. Civil Application No. 87 of 2011 taken out in the above Appeal is disposed of by this Court (Coram : P.B.Majmudar and A.A. Sayed, JJ.) on 21st June, 2011 by recording that “.....Considering the facts and circumstances of the case, we are of the opinion that since the concerned employees are serving since more than 8 to 15 years, as the case may be, it would be just, proper and equitable to direct the appellant Corporation to pay them the pay scale given to the other regular employees as the employees are doing the same work. Said benefit of regular pay scale is to be given with effect from 01.06.2011. The appellant Corporation shall continue to pay such pay-scales till the appeal is finally decided and subject to further orders in this behalf. Rest of the order of the learned Single Judge regarding giving consequential benefits as well as depositing the amount in Court as per paragraph 2 (ii) is stayed.....”

3. The learned Advocate appearing for the Applicants (Original Respondents) has now taken out Civil Application (L) No. 54 of 2017 seeking direction against the Respondents (Original Petitioners) to pay house rent allowance at the rate of 5% of basic and DA to the concerned workmen and annual leave with wages as per the Factories Act, 1948 from their date of joining.

4. The learned Advocate appearing for the Applicants (Original Respondents) submits that the order passed by the Division Bench of this Court dated 21st June, 2011 in Civil Application No. 87 of 2011 should be construed to mean that the benefit of regular pay scale to be given to the workers as per the order, would also include the benefits which are sought by the Applicants (Original Respondents) in Civil Application (L) No. 54 of 2017. The interpretation given by the learned Advocate appearing for the Applicants (Original Respondents) is opposed by the learned Senior Advocate appearing for the Respondents (Original Petitioners).

5. The Applicants (Original Respondents) have moved this Court for the reliefs in Civil Application (L) No. 54 of 2017 more than six years after the order was passed by this Court i.e. on 21st June, 2011. We are therefore not inclined to grant any reliefs in the Civil Application (L) No. 54 of 2017 at this stage. However, the hearing of the above Appeal is expedited and peremptorily fixed for hearing and final disposal on

22nd July, 2020. We also grant liberty to the Applicants (Original Respondents) to move the Division Bench of this Court, headed by Justice A.A. Sayed, who is party to the Order dated 21st June, 2011, seeking necessary clarification with regard to the said order, after taking necessary approval from the learned Chief Justice.

6. Civil Application (L) No. 54 of 2017 is accordingly disposed of.“

4. Thereafter, another Interim Application i.e. Interim Application No.11877 of 2024 is filed on behalf the workmen/General Secretary, MIDC Employees Union, praying for the following reliefs:

“(i) Direct the Respondents to grant the benefits of the resolution dated 19/05/2023 to the concern workmen without prejudice to their rights and contentions in the Award dt. 23.7.2010, Writ Petition and LPA;

(ii) Direct the respondent to additionally grant one promotional pay scale as per resolution dtd. 31.3.2021 with retrospective effect from Aug 2012;”

5. It is on the aforesaid backdrop, the proceedings are listed before us for final hearing.

6. At the outset we may observe that as noted in the title of the order, there are two appeals, one being L.P.A. No.66 of 2011 filed by the Maharashtra Industrial Development Corporation against the workmen (the General Secretary, MIDC Employees Union) and the other appeal being LPA No.145 of 2011 is filed by the workmen against the MIDC.

7. We have heard Mr. Chawan, learned Senior Counsel for the appellant/MIDC and Mr. D’Costa, learned Counsel for the respondent-General Secretary, MIDC Employees Union, who is the appellant in the other LPA. At the outset, we may observe that the order impugned in the present petition is an interim order passed by the learned Single Judge while admitting Writ Petition No.8403 of 2010. The writ petition is on date pending hearing despite the fact of there being no stay to the final hearing of the said writ

petition. The interim orders passed on the writ petition are modified by an order dated 21 June 2011 passed on the present appeal and the same has continued to operate.

8. We, hence, find merit in Mr. D'Costa's submissions that certainly prejudice would be caused to the workmen inasmuch as the issue in regard to leave encashment etc. are at present in a suspended animation, in view of the interim orders passed on the present appeal. However, the fact remains that it is only an interim arrangement which has continued to operate. All substantive rights of workmen being asserted in the writ petition are certainly open, which would fall for consideration of the learned Single Judge in the adjudication of the writ petition.

9. In this view of the matter, we are of the opinion that in the peculiar circumstances it is appropriate that the writ petition itself is taken up for hearing and decided by the learned Single Judge expeditiously, as for almost 15 years the proceedings are pending. We accordingly permit the parties to approach the learned Single Judge with a request to hear the proceedings for final adjudication considering the peculiar facts of the case.

10. We are informed by Mr. D'costa that during the pendency of the proceedings, the MIDC has come out with a scheme to grant employment to the concerned employees on "Partially Converted Temporary Establishment" and the employees would be eligible to take benefit of such scheme. It is Mr. D'Costa's contention that the employees being involved in the present proceedings need to be permitted to take benefit of such scheme without prejudice to their rights and contentions in the present proceedings, which have been pursued by them and in which they have succeeded before the Industrial Tribunal. It is submitted that, hence, the benefit of the orders of the tribunal ought to avail to their benefit and such factor needs to be considered by the MIDC. Although there is opposition by Mr.Chawan to this proposition as canvassed by Mr. D'costa, we are of the opinion that such issue needs to be left open, to be considered by the learned Single Judge

in the adjudication of the writ petition, and for which we are granting liberty to the Union/General Secretary, MIDC Employees Union, to file an interim application, if so advised. All contentions in that regard of the MIDC are expressly kept open. However, in our opinion, it is imminently in the interest of both the parties that the writ petition be decided expeditiously.

11. With the aforesaid discussion, we are inclined to dispose of both the Letters Patent Appeals in the aforesaid terms, however, keeping open the contentions to be urged in the pending writ petition.

12. Pending Interim Applications would not survive. They are accordingly disposed of.

13. At this stage, Mr. D'costa contends that as the appeals are being disposed of, the MIDC can consider the concerned workmen to take benefit of "Partially Converted Temporary Establishment" scheme without prejudice to their rights and contentions, as the MIDC has taken a position that it would consider such request subject to the orders being passed on the present appeals. If that be so, in the peculiar facts of the case, we leave it to the wisdom of the MIDC to take an appropriate position on any such benefit to be granted to the concerned workmen, as involved in the present proceedings under the said scheme. We also keep it open for the parties to put an end to the dispute by making an attempt to bring about an amicable settlement.

14. Disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)