

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

WRIT PETITION NO.4026 OF 2025

Kalyani Gorakshan Trust & Anr.

....Petitioners

V/S

Pankaj Uddhavrao Mote

....Respondent

WITH

WRIT PETITION NO.4027 OF 2025

Kalyani Gorakshan Trust & Anr.

....Petitioners

V/S

Anil Vasantryao Jadhav

....Respondent

Mr. Aumkar V. Joshi *for the Petitioners.*

Mr. Nitin Kulkarni *for Respondent/s through video conferencing.*

CORAM: SANDEEP V. MARNE, J.

DATE : 7 APRIL 2025.

P.C.:

1. Petitions challenge judgments and orders dated 15 February 2025 passed by the learned Member, Industrial Court, Satara, partly allowing Revision Applications filed by the Petitioner-employer and remanding the proceedings for fresh decision to the Labour Court. Though the order is passed in favour of the Petitioner-employer, the same is still challenged as it directs deposit of backwages as a pre-condition for fresh decision of the Complaint by the Labour Court.

2. I have heard Mr. Joshi, the learned counsel appearing for Petitioner-employer and Mr. Kulkarni, the learned counsel appearing for Respondents-employees.

3. It appears that during pendency of the Complaints, the Labour Court had passed order directing Petitioner-employer to produce certain documents. On account of Petitioner-employer's failure to produce the documents, the Labour Court drew adverse inference against the Petitioner-employer and allowed the Complaints. The Petitioner-employer produced several documents before the Industrial Court, which it had failed to produce before the Labour Court. The Industrial Court has remanded the proceedings for fresh decision after consideration of those documents. Since the remand was necessitated on account of conduct directly attributable to the Petitioner-employer, the Industrial Court has directed deposit of entire amount of backwages, which would be subject to the outcome of proceedings remanded to the Labour Court. Considering the facts and circumstances of the case, in my view, instead of directing backwages, it would be appropriate to award some costs to the Respondent-employees on account of delay of proceedings attributable to the Petitioner-employer. Award of costs of Rs.1,00,000/- to each of the Respondent would meet the ends of justice. In the event Labour Court decides the Complaints in favour of the Respondent-employees, they can

recover the amount of backwages, if awarded in their favour. As of now there is no warrant for directing deposit of backwages. At the same time Petitioner-employer deserves to be punished for being negligent in prosecuting the Complaints before the Labour Court. The negligence exhibited by the Petitioner-employer can be compensated. The loss caused to the Respondents-employees on account of negligent conduct of the Petitioner-employer can be compensated in terms of costs, which are computed at the rate of Rs.1,00,000/- payable to each of the Respondent-employee.

4. It appears that the Industrial Court had made the order of remand only with regard to issue Nos.2 and 4. Issue No.1 was about validity of termination and issue No.3 was about commission of unfair labour practices. Perusal of the order of Industrial Court does not indicate that it has considered the findings of Labour Court with regard to Issue Nos.1 and 3 on merits nor has upheld the same. In that view of the matter, the remanded proceedings would cover redetermination of issue Nos.1 and 3 as well.

5. I accordingly proceed to pass the following order:

- i) The judgments and orders dated 15 February 2015 passed by the learned Member, Industrial Court, Satara is modified to the extent of direction for deposit of backwages.

ii) It would not be necessary for the Petitioner-employer to deposit amount of backwages as a pre-condition for decision of remanded proceedings before the Labour Court.

iii) Instead Petitioner-employer shall pay costs of Rs.1,00,000/- each to both the Respondent-employees within a period of four weeks.

iv) Both the parties would be at liberty to lead additional evidence, if considered necessary on the basis of additional documents that are sought to be produced.

v) The Labour Court shall decide the remanded Complaints afresh on all the issues framed by it.

6. With the above directions, both the Petitions are **disposed of.**

(SANDEEP V. MARNE, J.)

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