



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2580 OF 2025

1. Narendra Manoranjansingh Gautam,
Aged about 53 yrs, occ. Nil,
2. Devendar Mitthulal Dharmik,
Aged about 49 yrs, Occ. Nil,
3. Narendra Nanaji Hirapure,
Aged about 53 yrs, Occ. Nil,
4. Sitaram Parmanand Mishra,
Aged about 54 yrs, Occ. Nil,
5. Ashwini Avadh Verma,
Aged about 48 yrs, Occ. Nil,
6. Pawan Gangaram Sharma,
Aged about 47 yrs, Occ. Nil.

All r/o C/o. Narendra Manoranjansingh
Gautam, Prasar Colony, Ward No.3,
Post Buttibori, District Nagpur

.....PETITIONERS

...VERSUS...

1. KDRA Insolvency Professional Pvt Ltd
(Earstwhile Kanchanshobha Debt.
Resolution Advisor Pvt Ltd) Resolution
Professional in the matter of Uniworth
Textile Ltd, IBBI Registration No.
IBBI/IPE-0059/IPA-1/2022-23/50037,
through its Authorized Signatory,

Hari Kishan Bhoklay, Director, IBBI
Registration Add.:Unit#207, 2ND Floor,
Kshitij, Near Azad Nagar Metro Station,

Veera Desai Road, Andheri West,
Mumbai 400053
E-mail : cirp.uniworth@gmail.com
Register E-id: irp@kanchanshobha.com

2. M/s. Uniworth Textiles Ltd
office at Plot No. B-129, MIDC Area
Buttibori, District Nagpur
through its Director/Board of Director.

3. Union of India, through its
Secretary, Ministry of Corporate
Affairs, Office at 5th Floor, Shastri Bhawan,
New Delhi 110 001.

..RESPONDENTS

Mr. V.V. Raut, Advocate for petitioners.
Mr. Dev Shah with Mr. Parth L. Sagdeo, Advocate for respondent No. 1.

**CORAM:- ANIL S. KILOR, &
RAJNISH R. VYAS, JJ.**

RESERVED ON : 08/10/2025
PRONOUNCED ON : 15/10/2025.

JUDGMENT (Per : Rajnish R. Vyas)

This petition challenges the action on the part of respondent No. 1 for rejecting the action of petitioners in submitting their claims, as illegal and arbitrary. The claim submitted by the petitioners was in fact, the details of the work in whose favour order was passed by Member, Industrial Court, Nagpur, in Complaint ULP No. 238/2017, directing the respondents therein i.e M/s. Uniworth Textiles Limited and officers

thereof not to vacate the quarters of the complainants therein, who were in possession. It was also by way of interim relief, directed by the Industrial Court No.2, Nagpur that complainants therein, (some of whom have filed writ petition before this Court), are held to be entitled to get wages for the period from 01.8.2017 to 24.8.2017.

2. We have gone through case record and heard respective counsels for the parties.

3. It is the case of the petitioners that they were workmen employed with respondent No. 2 company since last several years and the said company was unlawfully closed on 24.8.2017. According to the petitioners, since closure was not according to the Industrial Disputes Act, a complaint was filed by 113 employees bearing complaint No. ULP238/2017 before the Industrial Court, Nagpur. An application praying for interim relief, under Section 30(2) of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 was preferred which was allowed by the Court and directions as stated above were given.

4. In the meanwhile, a public notice (page No.115 of the petition) dated 21.11.2024, was published by the respondent No.1 (KDRA Insolvency Professionals Pvt Ltd) in a format of public announcement calling upon the creditors of Uniworth Textiles Limited to submit the claim with proof to respondent no. 1 as the insolvency proceedings had commenced against respondent Uniworth Textiles Limited.

5. According to the petitioners, on 9.12.2024, they have submitted their claims by way of e-mail to the respondent No.1. To email, several documents were attached. Again, on 8.6.2025, petitioners along with other employees submitted approximate claim along with the attachment showing their entitlements. Said email dated 8.1.2025 was replied by respondent No. 1 on 11.1.2025, by asking the petitioners to submit their claim in a format of proof of claim to be submitted by the various representatives of workman/employee. The petitioners on 24.1.2025, submitted the relevant details. According to the respondents, details submitted by the petitioners failed to provide the required documents so also specific information as sought and accordingly, their claim was found not admissible.

6. We are aware of the fact that genuineness of the claim, at this stage, cannot be decided by this Court. Same also cannot be done by the respondent no. 1. The question is only regarding submission of claim, validity of which would be decided by the competent officers under the Insolvency and Bankruptcy Code, 2016.

7. Facts remains that respondent No.1 had found claim to be not admissible since required documents – details were not supplied by the petitioners. If email dated 10.3.2025, issued by respondent No.1 is perused, (which is produced at page no. 156 of the petition), the reason given regarding treating the claim as not admissible is non providing of details – documents by the petitioners. Respondent No.1 may be right in not considering the claim for want of documents but fact remains that, petitioners are workmen and no prejudice would be caused if they are directed to submit their claims within time bound period in prescribed format to respondent no.1. The respondent No.1 can thereafter take appropriate call regarding admissibility, genuineness and validity of such claims by adopting procedure prescribed under the Insolvency and Bankruptcy Code, 2016 and regulations framed thereunder or by referring it to the competent authority.

8. We have not given any opinion regarding admissibility/validity of the claim of the petitioners. It is only with a view to avoid technical hurdle, the court is exercising its jurisdiction under Article 226 of Constitution of India. The contention of the petitioners that alternate remedy is available to the petitioners under the statute, more particularly, under Section 60 of the Code of 2016 cannot be disputed. Relegating petitioners to the alternate statutory remedy, in peculiar facts of this case, at this stage, will cause prejudice to the petitioners, who are workmen and whose wages were not even paid by their employer.

9. Powers under Article 226 are required to be exercised when miscarriage of justice occurs. The respondent no. 1 could have very well pointed out specific deficiency in submission of documents which has not been done by the authorities.

10. Judgment cited by the counsel for petitioner in case of *whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Ors*, reported in *1998(8) SCC 1*, and in case of *Embassy Property Developments Private Limited Vs. State of Karnataka and Ors (2020(13) SCC 308)*, so also *Gujarat Urja Vikas Nigam Limited Vs. Amit Gupta and*

Ors, [2021,(7) SCC 209], and finally in case of *Sunil Kumar and Ors Vs. Sundaresh Bhatt and Others*, [(2022)7 SCC 540]. Gist of the law laid down by the aforesaid judgment is

(a) where liability not existing at common-law is created by a statute, which also gives a special and particular remedy for enforcing it, the remedy provided by the statute must be followed.

(b) under article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a petition. But the High Court has imposed upon itself, certain restrictions, one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise, its jurisdiction.

(c) IBC is complete code and the process prescribed under it is required to be honoured.

(d) the wages and salaries of all other workmen/employees of corporate debtor, including CIRP who actually have not worked and/or perform their duties when the corporate debtor was a going concern, shall not be included automatically in CIRP cost. Only with respect of those workmen who actually work during CIRP, when the corporate debtor was going concerned, their

wages/salaries are to be included. Any other due towards wages and salaries of the employees/workmen of the corporate debtor shall be governed by section 53(1)(b)(c) of IBC.

Law laid down in the aforesaid judgments cannot be disputed at all. At the cost of repetition , we are saying that we have not at all adjudicated claims of workmen. Their entitlement, can neither be decided by this court, at this stage, nor by the respondent no. 1. Thus alternate remedy cannot be said to be a bar since action of respondent number one was arbitrary and in violation of principles of natural Justice.

In that view of the matter, following order is passed:

ORDER

- i) Petitioners are directed to give details to respondent No.1 in prescribed format as demanded by respondent no.1 vide its email dated 11.1.2025, within seven days from today.
- ii) If respondent no.1 finds any deficiencies, same can be conveyed to the petitioners on earlier email address of advocate, within three days, thereafter. The petitioners further can remove the deficiencies within three days, thereafter.

iii) It is made clear that extension of time will not be granted. The respondent no.1, after receiving the details from the petitioners will be free to act in accordance with procedure laid down under Insolvency and Bankruptcy Code, 2016.

7. The petition is disposed of in the aforestated terms.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)