

ITEM NO.47

COURT NO.11

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 392/2015

BHARTIYA MAZDOOR SANGH, UTTAR PRADESH AND ANOTHER Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA No. 115623/2021 - APPLICATION FOR PERMISSION
IA No. 150702/2021 - APPLICATION FOR PERMISSION
IA No. 52254/2019 - APPLICATION FOR SETTLEMENT
IA No. 1/2015 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 35965/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 54826/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 35588/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 105253/2020 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 50165/2021 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 199823/2022 - CLARIFICATION/DIRECTION
IA No. 23487/2021 - CLARIFICATION/DIRECTION
IA No. 40102/2020 - CLARIFICATION/DIRECTION
IA No. 142575/2019 - CLARIFICATION/DIRECTION
IA No. 35966/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 123967/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 23489/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 116275/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 35610/2022 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 105255/2020 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 115625/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 50170/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 33606/2022 - EXEMPTION FROM FILING O.T.
IA No. 123966/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 116274/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 33603/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 29-08-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Mr. Satya Mitra, AOR
Ms. Hetvi Patel, Adv.

For Respondent(s) Mr. Arun K. Sinha, AOR
Mr. Ansar Ahmad Chaudhary, AOR

Mr. Ravindra Kumar Raizada, A.A.G.
Ms. Alka Sinha, Adv.
Mr. Anuvrat Sharma, AOR

Mr. Prateek K Chadha, A.A.G.
Mr. Milind Kumar, AOR

Mr. Dhruv Mehta, Sr. Adv.
Ms. Ruby Singh Ahuja, Adv.
Ms. Meenakshi Grover, Adv.
Mr. Vishal Singh, Adv.
Ms. Deepti Sarin, Adv.
Ms. Kritika Sachdeva, Adv.
Ms. Akanksha Thapa, Adv.
Ms. Anupama, Adv.
M/S. Karanjawala & Co., AOR

Ms. Shobha Gupta, AOR

Mr. Barun Kumar Sinha, Adv.
Mrs. Pratibha Sinha, Adv.
Mr. Pankaj Kumar Shukla, Adv.
Mr. Sneh Vardhan, Adv.
Mr. Rameshwar Prasad Goyal, AOR

**Regional Provident
Fund Commissioner** Mr. Siddharth, AOR
Mr. Amit Kumar Agrawal, Adv.

**UPON hearing the counsel the court made the following
O R D E R**

1. Applications seeking exemption from filing affidavits, permission to file additional documents and exemption from filing official translation are allowed.
2. Mr. Dhruv Mehta, learned Senior counsel appearing for the respondents No.5 and 6 states on instructions that the Company accepts the figure of ₹98,00,00,000/-

(Rupees ninety-eight crores) as payable to the employees of the Rajasthan Unit towards wages including gratuity and leave encashment till the cut-off date, i.e. 31st December, 2008.

3. The cut-off date is admitted by both sides. However, Mr. Colin Gonsalves, learned Senior counsel appearing for the petitioner-Union disputes the figure of ₹98,00,00,000/- (Rupees ninety-eight crores) as payable to the employees of the Rajasthan Unit and submits that the sum due is to the tune of ₹1,15,00,00,000/- (Rupees one hundred fifteen crores) plus interest and Provident Fund.

4. It is further submitted by learned counsel for the petitioner-Union that though the Settlement Agreement in respect of the Kanpur Unit was executed between the Management and the workers on 26th February, 2019 and was approved by this Court *vide* order dated 29th July, 2019, out of a total 1,334 employees in the said Unit, so far, only 512 employees have been paid their dues. 822 employees have not been paid any amount. 301 claims have been received for verification by the Commissioner. This leaves 521 employees who are yet to be located/verified for disbursement of dues.

5. Out of a total sum of ₹48,00,00,000/- (Rupees forty-eight crores), payable under the Settlement Agreement to the employees of the Kanpur Unit, it is stated by the counsel for the respondents No. 5 and 6 Company that a sum of ₹22,00,00,000/- (Rupees twenty-two crores) (approximately) remains payable as 521 employees are yet to be located/identified.

6. In our opinion, it is imperative that even those 521 employees who are yet to file their claims, be identified at the earliest. This exercise cannot be left to Mr. Sarwat Kamal

Khan, former Additional District Judge, U.P. who has been supervising the process of identification, verification of the applications submitted by the employees/the legal heirs of the deceased employees and disbursement of dues as per calculation sheet forwarded to the respondents No.5 and 6-Company.

7. We deem it appropriate to direct the petitioners to prepare a list of the remaining 521 employees/the legal heirs of the deceased employees of the Kanpur Unit with their names and current addresses. Needful shall be done within three weeks. The said list shall be furnished directly to learned counsel for the respondents No.5 and 6-Company who shall ensure that letters by registered A.D. post are dispatched calling upon the concerned employees/their legal representatives/nominees to submit their claims at the earliest. Advertisements in some local newspapers in Hindi language having large circulation in the area shall also be issued. An affidavit shall be filed by respondents No.5 and 6-Company indicating *inter alia* the status of delivery of the letters dispatched by registered A.D. post to the remaining 521 employees belonging to the Kanpur Unit and publication in the newspaper.

8. Learned counsel for the respondents No.5 and 6-Company is directed to prepare a computation of the outstanding dues payable to 521 employees/the legal heirs/nominees of the deceased employees and file it within three weeks. In the meantime respondents No. 5 and 6-Company shall deposit the sum of ₹20,00,00,000/- (Rupees Twenty crores) with the Registry of this Court. ₹10,00,00,000/- (Rupees ten crores) shall be deposited within three weeks and the remaining sum of ₹10,00,00,000/- (Rupees ten crores), within three weeks thereafter. Immediately on the amounts being deposited in this

Court, the same shall be placed in Fixed Deposits with a Nationalized Bank, carrying highest rate of interest initially for a period of one year. Four FDRs of ₹5,00,00,000/- (Rupees five crores) each shall be prepared and renewed thereafter from time to time, till disposal of this matter. The balance sum of ₹2,00,00,000/- (Rupees Two crores) (approximately) shall be retained by the respondents No.5 and 6-Company for disbursement to the employees/their legal representatives on the Commissioner's verifying the claims and sending the list to the respondents No.5 and 6-Company.

9. Henceforth, the respondents No.5 and 6-Company shall ensure that payments to be made to the Commissioner are not made in bulk after some months, but made on the basis of the list forwarded each time by the Commissioner for disbursement of dues.

10. We appoint Mr. Dheeraj Singh Rajawal, former District Judge, R/o Village Peeplewada, District: Sawai Madhopur, as a Commissioner to supervise the process of identification, verification and disbursement of dues to each of the 3,535 employees of the Rajasthan Unit or their legal heirs/nominees. The fee of the Commissioner in the case of the Kanpur Unit fixed at ₹1,600/- (Rupees one thousand six hundred only) per claim, is enhanced to ₹2,000/- (Rupees two thousand only) per claim effective from 01st September, 2023. The Commissioner appointed for Rajasthan Unit shall also be paid at the same rate as has been fixed above, for the Commissioner in the case of the Kanpur Unit.

11. As for the Rajasthan Unit, we are informed that 3,535 employees were working in the Rajasthan Unit and so far, none of them have been paid any amount.

12. Learned counsel for the Noticee-Union submits that he shall prepare a list of the

employees/ legal representatives/nominees of deceased employees of the Rajasthan Unit along with their current addresses and their bank account numbers etc. He seeks three weeks time to prepare the said list and submit it to the Commissioner named above, who shall undertake the procedure of identification, verification and disbursal on the same pattern as done in the case of the employees of the Kanpur Unit and approved by this Court *vide* order dated 29th July, 2019. Of course, the amounts to be disbursed will be computed separately for each employee.

13. Mr. Dhruv Mehta, learned Senior counsel submits that it would help the Company in generating funds, if the scrap lying in the Sawai Madhopur Industrial Unit, Rajasthan, is permitted to be lifted and sold by the Company. The other side has no objection to the said suggestion. Learned counsel appearing for the noticee-Union also gives an assurance to this Court that the employees shall not obstruct removal of the scrap from the premises of the Industrial Unit by the Company, as and when it so desires.

14. List on 26th September, 2023 at 2.00 p.m., in the category of directions for reporting compliance.

15. A copy of this order shall be forwarded at the earliest to the Commissioner named in para 10 above, for perusal and compliance.

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Renu Bala Gambhir)
Court Master (NSH)