

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

REVIEW PETITION (L) NO.06 OF 2006
IN
WRIT PETITION NO.2182 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. & Ors. ...Petitioners
Vs.
State of Maharashtra & Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioners.
Mr P.M.Patel for Petitioners in Writ Petition.
Mr S.M. Dandekar,A.G.P. for Respondent Nos.1 and 2.

WITH
REVIEW PETITION (L) NO.12 OF 2006
IN
WRIT PETITION NO.2176 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
Kundlik Mahadeo Mohan & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.13 OF 2006
IN
WRIT PETITION NO.1417 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
Vasant Shripad Samat & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for the Respondent No.6.

WITH
REVIEW PETITION (L) NO.14 OF 2006
IN
WRIT PETITION NO.2829 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
Barkatali K.Surani & Ors. ...Respondents

Ms Madhubala Kajale, A.G.P. for the Review
Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.15 OF 2006
IN
WRIT PETITION NO.2048 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
R.M. Kanchan & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.16 OF 2006
IN
WRIT PETITION NO.2032 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
Madhukar Balkrishna Narkar & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.17 OF 2006
IN
WRIT PETITION NO.2182 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.
Dilip T. Khandar & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.18 OF 2006
IN
WRIT PETITION NO.1856 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Bhagwan Ganpat Phatak & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.

Mr P.M. Patel for Petitioners in Writ Petition.

Ms Meena H. Doshi for Respondent Nos.2 and 3.

WITH
REVIEW PETITION (L) NO.19 OF 2006
IN
WRIT PETITION NO.1689 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Vijay Rajaram Naik & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.

Mr P.M. Patel for Petitioners in Writ Petition.

Ms Meena H. Doshi for Respondent No.5.

WITH
REVIEW PETITION (L) NO.20 OF 2006
IN
WRIT PETITION NO.2411 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

D.K. Kesarkar & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.

Mr P.M. Patel for Petitioners in Writ Petition.

WITH
REVIEW PETITION (L) NO.21 OF 2006
IN
WRIT PETITION NO.2283 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Pandurang Tukaram Bhagat & Ors. ...Respondents

Ms Madhubala Kajale, A.G.P.for the Review Petitioners.

Mr P.M. Patel for Petitioners in Writ Petition.

Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.22 OF 2006
IN
WRIT PETITION NO.1911 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Ramakant Shanker Parab & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.23 OF 2006
IN
WRIT PETITION NO.1764 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Ramachandra N. Warkhandkar & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.

WITH
REVIEW PETITION (L) NO.24 OF 2006
IN
WRIT PETITION NO.1857 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Suresh N. Abuvala & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.
Ms Meena H. Doshi for Respondent Nos.2 and 3.

WITH
REVIEW PETITION (L) NO.25 OF 2006
IN
WRIT PETITION NO.2410 OF 2005

State of Maharashtra & Ors. ...Petitioners
Vs.

Prabhavati D. Kahar & Ors. ...Respondents

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.

WITH
REVIEW PETITION (L) NO.26 OF 2006
IN
WRIT PETITION NO.2617 OF 2005

State of Maharashtra & Anr. ...Petitioners
Vs.

Prakash R. Desai ...Respondent

Mr S.M. Dandekar, A.G.P.for the Review Petitioners.
Mr P.M. Patel for Petitioners in Writ Petition.

WITH
REVIEW PETITION (L) NO.27 OF 2006
IN
WRIT PETITION NO.2410 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Ms Mugdha Jadhav, A.G.P. for Respondent Nos.1 & 2.

WITH
REVIEW PETITION (L) NO.28 OF 2006
IN
WRIT PETITION NO.2283 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr P.V. Dhopatkhar, A.G.P. for Respondent Nos.1 & 2.
Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.29 OF 2006
IN
WRIT PETITION NO.1689 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr Milind More, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H. Doshi for Respondent No.5.

WITH
REVIEW PETITION (L) NO.30 OF 2006
IN

WRIT PETITION NO.2176 OF 2005

National Textile Corporation
(Maharashtra North) ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr P.V. Dhopatkar, A.G.P. for Respondent Nos.1 & 2.
Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.31 OF 2006
IN
WRIT PETITION NO.1857 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Mr S.M. Dandekar, A.G.P. for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr S.M. Dandekar, A.G.P. for the State.
Ms Meena H. Doshi for Respondent Nos.2 and 3.

WITH
REVIEW PETITION (L) NO.32 OF 2006
IN
WRIT PETITION NO.2411 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Ms Mugdha Jadhav, A.G.P. for Respondent Nos.1 and 2.

WITH
REVIEW PETITION (L) NO.33 OF 2006
IN
WRIT PETITION NO.2182 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr Milind More, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.34 OF 2006
IN
WRIT PETITION NO.1911 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr P.V. Dhopatkar, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.35 OF 2006
IN
WRIT PETITION NO.2032 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr S.M. Dandekar, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H. Doshi for Respondent Nos.5 and 6.

WITH
REVIEW PETITION (L) NO.36 OF 2006
IN
WRIT PETITION NO.2617 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr M.D. Naik, A.G.P. for Respondent Nos.1 and 2.

WITH

REVIEW PETITION (L) NO.37 OF 2006
IN
WRIT PETITION NO.2829 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr P.V.Dhopatkar, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H.Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.38 OF 2006
IN
WRIT PETITION NO.2048 OF 2005

National Textile Corporation
(Maharashtra North) ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr S.M. Dandekar, A.G.P. for Respondent Nos.1 and 2.
Ms Meena H. Doshi for Respondent No.6.

WITH
REVIEW PETITION (L) NO.39 OF 2006
IN
WRIT PETITION NO.1856 OF 2005

National Textile Corporation
(Maharashtra North) ...Petitioner
Vs.
State of Maharashtra & 3 Ors. ...Respondents

Ms Meena H. Doshi for the Review Petitioner.
Mr P.M. Patel for Petitioner in Writ Petition.
Mr S.M. Dandekar, A.G.P. for Respondent No.1.
Ms Meena H. Doshi for Respondent Nos.2 & 3.

AND
REVIEW PETITION (L) NO.40 OF 2006
IN
WRIT PETITION NO.1417 OF 2005

National Textile Corporation
(Maharashtra North) Ltd. ...Petitioner

Vs.

State of Maharashtra & 3 Ors.

...Respondents

Ms Meena H. Doshi for the Review Petitioner.

Mr P.M. Patel for Petitioner in Writ Petition.

Mr S.M. Dandekar, A.G.P. for the State.

Ms Meena H. Doshi for Respondent No.6.

**CORAM : SMT RANJANA DESAI AND
SHRI ABHAY S. OKA, JJ.**

DATE : MARCH 31, 2006.

(PER ABHAY S. OKA, J):

1. The State of Maharashtra and the Collector of Mumbai have filed Review Petitions praying for review of judgment and order dated 13th January, 2006 passed by this Court in Writ Petition No.2182 of 2005 and other connected Petitions. The National Textile Corporation (Maharashtra North) Ltd., the National Textile Corporation (South Maharashtra), Unit-Kohinoor Mills and General Manager of Kohinoor Mills have also filed Review Petitions praying for review of the same judgment and order. This group of Review Petitions can be disposed of by a common judgment and order.

2. Mrs Doshi, the learned Counsel appearing for the National Textile Corporation (Maharashtra North) Ltd., and two others submitted that this Court has directed the concerned Respondents to pay interest on the basis of amendment to Section 267 of the Maharashtra Land Revenue Code, 1966 made by

Maharashtra Ordinance No.30 of 1999. She submitted that the Maharashtra Ordinance No.30 of 1999 was never converted into an Act and therefore, the ordinance has lapsed. She submitted that the only basis for awarding interest in the judgment and order under review is the said amendment made by Maharashtra Ordinance No.30 of 1999 to the said Code of 1966 and as on the date of the Judgment, the said amendment was not in existence, direction given to pay interest will have to be set aside. The second submission made by the learned Counsel is that in the original recovery certificate or in the order passed by the Labour Court, there is no direction for payment of interest and while deciding Writ Petitions filed for enforcement of the recovery certificate, this Court has directed payment of interest which is not permissible in law.

3. The learned A.G.P. in support of the Review Petitions filed by the State of Maharashtra and Collector of Mumbai submitted that in view of decision of this Court in Judgment dated 09th February, 2004 in Writ Petition No.3085 of 2003 the National Textile Corporation was entitled to pay the dues of workers at the monthly instalment of Rs.5,00,000/- but the Collector granted instalments of Rs.15,00,000/- per

month. The second submission made by the learned A.G.P. is that Maharashtra Ordinance No.30 of 1999 has lapsed and therefore, the amendment introduced by the said ordinance cannot be applied.

4. We have considered the submissions. In so far as the first submission of the learned Counsel appearing for the National Textile Corporation is concerned, it must be noted that the fact that the Maharashtra Ordinance No.30 of 1999 has lapsed was not brought to the notice of this Court either by the State Government or by any of the parties. It must be noted here that the direction issued by us in our judgment to pay interest is not based only on the Maharashtra Ordinance No.30 of 1999. In paragraph No.18 of our judgment we have held that apart from statutory provisions of the Maharashtra Land Revenue Code, 1966, under Article 226 of the Constitution of India direction to pay interest can always be issued. Placing reliance on decisions of the Apex Court which are referred to in paragraph Nos.18 and 19 of our judgment we have directed the Review Petitioners to pay interest. In paragraph No.20 we have given reasons for issuing the said direction. We have noted that the Petitioners who were employees of Kohinoor Mills were waiting for several years for their dues to

be paid and they were forced to apply for recovery certificates as the orders passed in their favour by the Labour/ Industrial Courts remained unimplemented for many years. We have noted in our judgment that the recovery certificates were issued in the years 2004 and 2005 on the basis of orders passed by the competent Industrial/ Labour Courts much earlier. Considering the plight of the Petitioners who were ex-employees of Kohinoor Mills Ltd., who were not paid their dues for several years we directed payment of interest on the overdue amount at the rate of only 6 per cent per annum. As the direction to pay interest is not based only on the amendment made by the Maharashtra Ordinance No.30 of 1999, there is no ground at all to review or recall direction to pay interest at the rate of 6 per cent per annum.

5. We awarded interest by exercising power under Article 226 of the Consitution of India as we found that dues of the workers were not paid for many years. The orders for payment of dues of workers were passed by the Competent Court in the proceedings filed by workers in or about the year 1990. The final orders were passed by the Court in the year 1999 and 2000. Considering the gross facts of the case, there is no error in awarding interest at the rate of only 6 per

cent per annum. As the orders of the Labour/Industrial Court which had attained finality were not complied with by the National Textile Corporation, recovery certificates were issued by the concerned Courts at the instance of the Petitioners directing the Collector to recover the amounts due and payable to the Petitioners- Workers as if the said amounts were arrears of land revenue payable by the employer. It must be noted here that the amounts in respect of which recovery certificates were issued represent long standing dues payable to the Petitioners-Workmen. The dues remained unpaid notwithstanding orders earlier passed by this Court in case of similarly situated Petitioners who were also workers of the Kohinoor Mills Ltd. Therefore, there is no merit in the second submission of Mrs. Doshi.

6. So far as the first submission of the learned A.G.P. is concerned, we must record that the learned A.G.P. has relied upon only that part of decision in Writ Petition No.3085 of 2005 which suits the government. In paragraph No.23 of the said decision, this Court directed that steps must be taken by Collectors of all the districts in the State to promptly recover the outstanding dues payable to the workers under the recovery certificates. This Court

in the said decision noted that inspite of earlier pronouncement by this Court, the State Government and the Collectors have not taken any steps to expedite recoveries of the due of the workers. In fact in the said decision, the Division Bench has directed that the Collector should initiate proceedings for recovery in accordance with the procedure prescribed by the Maharashtra Land Revenue Code starting from issuing notice for payment and culminating in sale of properties. The Division Bench directed that if for some reasons the Collector is unable to do so within period of three months, the reasons shall be stated in writing and communicated to the concerned workers. We have held that the Collector could not have granted instalments to the employer without giving prior notice to the Petitioners who were directly affected by grant of instalments. We have noted that the Collector in this case did not comply with the directions issued by this Court in Writ Petition No.3085 of 2005. We have recorded a finding that action of unilaterally granting instalments to the employer was itself illegal and contrary to law. Therefore, the first submission made by the learned A.G.P. has no merit at all. So far as the second submission is concerned, we have already dealt with the said submission.

7. The learned A.G.P. lastly submitted that order directing the Respondents to pay costs should be set aside. In our judgment we have noted the manner in which the machinery of the State acted in the present case in breach of the direction issued by this Court in its earlier orders. We expected the machinery of the State to be much more responsive and sensitive to the cause of workers most of whom were rendered jobless. The conduct of the machinery of the State was not in conformity with the concept of a welfare State. We have noted that the machinery created by the law did not take prompt action of implementing the orders passed in favour of the workers against the public entities like the National Textile Corporation Ltd. Therefore, request made by the learned A.G.P. cannot be accepted.

8. There is no merit in Review Petitions and the same are dismissed with no orders as to costs.

(SMT RANJANA DESAI, J)

(ABHAY S. OKA, J)