

**IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA**

DATED THIS THE 30th DAY OF NOVEMBER 2012

PRESENT

THE HON'BLE MR. JUSTICE MOHAN SHANTANAGOUDAR
AND
THE HON'BLE MR. JUSTICE RAVI MALIMATH

WRIT APPEAL NO. 50588/2012 c/w WRIT APPEAL
NOS. 50528/2012, 50587/2012, 50585/2012, 50586/2012,
50566/2012, 50567/2012, 50568/2012

WA 50588/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

(BOTH APPELLANTS REPRESENTED
BY ITS JOINT PRESIDENT
G.MUROLEEDHARAN NAIR)

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. RAMSINGH S/O KESHAV NAIK
SINCE DECEASED BY HIS LRS

1A. SMT. RUMIBAI
W/O LATE RAMSINGH
AGED ABOUT 53 YEARS

1B. VENKATGESH NAIK
S/O LATE RAMSINGH NAIK
AGED ABOUT 30 YEARS

BOTH R/AT Q.NO.ATR/30/2,
JAYPEE CEMENT COLONY,
SHAHABAD, TQ. CHITTAPUR,
GULBARGA DISTRICT.

2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE.

3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST.

4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1(A) & (B), SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 19.07.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81950/2012 (L-ID).

WA 50528/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
THROUGH ITS JT. PRESIDENT
SHAHABAD.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. MOHAMEED SHAFI
S/O SHAIKHIMAMSAB

62 YEARS,
R/AT T.R.NO.3/1,
JAYPEE COLONY, SHAHABAD,
TQ: CHITTAPUR,
GULBARGA DISTIRCT.

2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE.
3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST.
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 18.07.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81449/2012 (L-PW) AND DISMISS THE W.P.NO. 81449/2012 BY IMPOSING EXEMPLARY COST ON THE FIRST RESPONDENT.

WA NOS. 50587/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

(BOTH APPELLANTS REPRESENTED
BY ITS JOINT PRESIDENT
G.MUROLEEDHARAN NAIR)

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. M.A.MUKTEDAR
S/O ABDUL,
AGED 58 YEARS,
R/AT Q.NO.2/2, J.P. COLONY,
SHAHABAD, TQ: CHITTAPUR,
GULBARGA DISTRICT.
2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,

BANGALORE.

3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST.
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 01.08.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81564/2012 (L-RES).

WP NOS. 50585/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
BY ITS PRESIDENT
G. MURALEEDHARAN NOLR.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,

G. MURALEEDHARAN NAIR,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. APPARAO
S/O OF TUKARA
AGED ABOUT 62 YEARS,
R/AT Q.NO. A/10/2,
JAPEE CEMENT COLONY,
SAHABAD, TQ. CHITTAPUR,
GULBARGA DISTRICT.
2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE.
3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST.
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR

AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 20.07.2012 IN W.P.NO: 81694/2012 AND DISMISS THE W.P.NO: 81694/2012 BY IMOSING EXEMPLARY COST OF THE FIRST RESPONDENT.

WA NOS. 50586/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

(BOTH APPELLANTS REPRESENTED
BY ITS JOINT PRESIDENT
G.MUROLEEDHARAN NAIR)

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. JAGANNATH KULKARNI
S/O OF SRINIVAS KULKARNI
AGED ABOUT 61 YEARS,

R/AT Q.NO. ATR/50/1
JAYPEE CEMENT COLONY
SAHABAD, TQ. CHITTAPUR
GULBARGA DISTRICT.

2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE.
3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST.
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA
HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER
DATED 18.07.2012 PASSED BY THE SINGLE JUDGE OF
THIS HON'BLE COURT IN THE WRIT PETITION
NO.81692/2012 (L-PW).

WA NO. 50566/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
REPRESENTED BY ITS
PRESIDENT J.P. CEMENT.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT-586101.

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. ABDUL GAFOOR
S/O MOHD. KABULA,
AGED 61 YAEAS,
R/AT B ½ JAYPEE COLONY,
SHAHABAD,
TQ: CHITTAPUR,
GULBARGA DISTRICT-585103.
2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,

BANGALORE-02

3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST-585103
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA-585103.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 17.07.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81451/2012 (L-PW).

WP NOS. 50567/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
BY ITS REPRESENTED
BY JAYPEE CEMENT CORPORATION LTD.
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,

(REPT, BY ZUWAR CEMENTS,
ITS PRESIDENT),
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT.

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. ANNA RAO
S/O MALLIKARJUN JAVAJI
AGED 61 YEARS,
R/AT Q.NO.ATR/13/2,
JAYPEE COLONY,
SHAHABAD,
TQ: CHITTAPUR,
GULBARGA DISTRICT-585103.
2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE-02
3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST-585103
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA-585103.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 17.07.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81452/2012 (L-PW).

WP NOS. 50568/2012

BETWEEN:

1. ZAWAR CEMENTS PVT LTD
B-105, KALPATARU PLAZA,
224, BHAVANIPETH,
PUNE.
(REPRESENTED
BY JAYPEE CEMENTS J.T. PRESIDENT).
2. JAYPEE CEMENTS
CORPORATION LTD,
THROUGH ITS JT. PRESIDENT,
SHAHABAD CEMENT WORKS,
SHAHABAD, TQ: CHITAPUR,
GULBARGA DISTRICT-586101.

... APPELLANTS

(BY SRI: L.M. CHIDANANDAYYA, ADV.)

AND :

1. ASHOK
S/O LATE CHANDRASHYA
BHARAMSHETTY,

AGED 61 YEARS,
R/AT T.R.NO.15/2,
JAYPEE COLONY,
SHAHABAD COLONY,
CHITTAPUR,
GULBARGA DISTRICT-586101.

2. THE STATE OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
VIDHANA SOUDHA,
BANGALORE-500014.
3. THE DEPUTY COMMISSIONER
GULBARGA,
GULBARGA DIST-586101.
4. THE DEPUTY LABOUR
COMMISSIONER,
SANGAM COMPLEX,
GULBARGA-586101.

..Respondents

(BY SRI P. VILAS KUMAR ADV
FOR R1; SRI M. KUMAR
AGA FOR R2 TO 4.)

THIS WRIT APPEAL FILED U/S. 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE ORDER DATED 17.07.2012 PASSED BY THE SINGLE JUDGE OF THIS HON'BLE COURT IN THE WRIT PETITION NO.81450/2012.

These Writ Appeals coming up for Orders this day,
MOHAN SHANTANAGOUNDAR .J., delivered the following.

JUDGMENT

Delay condoned in all the writ appeals.

Heard.

2. By the impugned orders, the learned Single Judge has directed the 2nd respondent – Deputy Commissioner, Gulbarga to recover money covered under the Recovery Certificate dated 20.3.2003 as expeditiously as possible.

3. Copy of the writ petitions are produced alongwith the writ appeal papers. The prayer of the petitioners in the writ petitions is for a direction to Respondent No.2 to recover certain amount apart from other benefits towards credit of leave with pay from Respondent Nos.4 and 5 alongwith interest thereon. In view of the same, the learned Single Judge ought to have issued notice to Respondent Nos.4 and 5 in the writ petitions i.e., the appellants herein. Since the say of the appellants is necessary, the learned Single Judge ought to have heard

them. In addition to the same, Sri Chidanandayya, learned advocate appearing on behalf of the appellants submits that similar two writ petitions, which were filed by the workmen were dismissed.

Be that as it may, since we find that notice to Respondent Nos.4 and 5 in the writ petitions i.e., appellants herein is necessary, the impugned orders passed by the learned Single Judge in the writ petitions stand set aside. The matters are remitted to the learned Single Judge for fresh disposal in accordance with law. Writ Petitions are restored to the file of the learned Single Judge.

Writ Appeals are **allowed** accordingly.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

Gss/