



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 29th OF APRIL, 2025

WRIT PETITION No. 1711 of 2025

***AADMI JATI SEVA SAHAKARI MARYADIT THROUGH ITS
PLRABANDHAK***

Versus

***APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
LABOUR COMMISSIONER OF AND OTHERS***

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri Prateek Patwardhan- Advocate for the respondent No.3.

WITH

WRIT PETITION No. 33610 of 2024

***AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
KATARGAON THROUGH ITS PRABANDHAK***

Versus

***APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS***

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 39360 of 2024

***AADIM JATI SEVA SAHKARI SANTHA MARYADIT
DHARGAON THROUGH ITS PRAVANDHAK***

Versus

THE STATE OF MADHYA PRADESH AND OTHERS



Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 39391 of 2024

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
DHARGAON THROUGH ITS PRABANDHAK**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
LABOUR COMMISSIONER AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 39397 of 2024

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
DHARGAON THROUGH ITS PRABANDHAK**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
LABOUR COMMISSIONER OFFICE OF LABOUR
COMMISSIONER AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 39398 of 2024

**AADIM JATI SEVA SAHKARI SANSTHA DHARGAON
THROUGH ITS PRAVANDHAK**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
LABOUR COMMISSIONER AND OTHERS**

Appearance:



Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 41277 of 2024

AADIM JATI SEVA SAHKARI SANSTHA MARYADIT

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT 1972
AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri R.S. Chauhan- Advocate for the respondent No.3.

WRIT PETITION No. 1149 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
SOMAKHEDI**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 1152 of 2025

AADIM JATI SEVA SAHKARI SANSTHA MARYADIT

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUTITY ACT
AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri Prateek Patwardhan- Advocate for the respondent No.3.



WRIT PETITION No. 1155 of 2025

AADIM JATI SEVA SAHKARI SANSTHA MARYADIT

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 1156 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
MAHESHWAR**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 1164 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
MAHESHWAR THROUGH ITS PRABANDHAK**

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 1384 of 2025

AADIM JATI SEVA SAHKARI SANSTHA MARYADIT KARHI

Versus



**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 1386 of 2025

AADIM JATI SEVA SHKARI SANSTHA MARYADIT KARHI

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 2098 of 2025

AADMI JATI SEVA SAHAKARI SANSTHA MARYADIT

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
LABOUR COMMISSIONER AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri Prateek Patwardhan- Advocate for the respondent No.3.

WRIT PETITION No. 2769 of 2025

AADIM JATI SEVA SAHAKARI SANSTHA MARYADIT

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sharad Pawar- Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the State.



WRIT PETITION No. 2772 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
THROUGH ITS PRABANDHAK**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT
AND LABOUR COMMISSIONER OFFICE OF LABOUR
COMMISSIONER AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 3336 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADIT
ASHAPUR THROUGH ITS PRABANDHAK**

Versus

**APPELLATE AUTHORITY PAYMENT OF GRATUITY ACT AND
OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri K.P. Mohan- Advocate for the respondent No.3.

WRIT PETITION No. 3593 of 2025

**AADIM JATI SEVA SAHKARI SANSTHA MARYADITT
GOGAVA THROUGH ITS PRABANDHAK**

Versus

**APPELLAZTE AUTHORITY PAYMENT OF GRATUITY ACT
AND LABOUR COMMISSIONER AND OTHERS**

Appearance:

Shri Amay Bajaj - Advocate for the petitioner.

Shri Kushal Goyal- Dy. A.G. for the respondent Nos.1 and 2.

Shri Prateek Patwardhan- Advocate for the respondent No.3.

**ORDER**

1] This order shall also govern the disposal of the connected batch of writ petitions, regard being had to the similitude of the issue involved.

2] This petition has been filed against the order dated 10.10.2024, passed in Gratuity Appeal Case No.177/2024, by the Appellate Authority, Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act of 1972'), whereby the petitioner's appeal has been dismissed on the ground of non-compliance of Section 7(7) of the Act of 1972, which provides for deposition of an amount equal to the amount of gratuity required to be deposited under Sub-Section (4).

3] A preliminary objection has been raised by the respondent No.3, contending that the petition is not maintainable, as the Appellate Authority has rightly passed the order directing the petitioner to comply with the mandatory provision of pre-deposit, and in the absence of the same, the order has been passed, and in such circumstances the petitioner cannot assail the aforesaid order, as also the original order dated 16.07.2024, whereby, it has been directed to pay a sum of Rs.10,64,000/- towards payment of gratuity.

4] The prayer is vehemently opposed by Shri Amay Bajaj, learned counsel for the petitioner, and it is submitted that the petitioner does not even fall within the purview of the Act of 1972, Section 2(e) of which provides for the definition of employee. Counsel for the petitioner has also relied upon the decision rendered by the Supreme Court in the case of *M/s Tamil Nadu Cements Corporation Limited Vs. Micro and Small Enterprises*



W.P. No.1711-2025 and connected ***Facilitation Council and Another***, passed in ***SLP (C) No.2379 of 2025*** dated ***22.01.2025***, wherein, the question was whether a writ petition under Article 226 of the Constitution of India would be maintainable against an order passed by the Micro and Small Enterprises Facilitation Council in exercise of powers under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'MSME Act'), as admittedly, against an order passed under Section 18 of the Act, an appeal is maintainable under Section 19, which provides for deposition of 75% of the awarded amount, and while referring to various decisions of the Supreme Court, the matter has been referred to the Larger Bench of five Judges, specifically referring the question that, *“if the bar/prohibition is not absolute, when under what circumstances will the principle/restriction of adequate alternative remedy not apply?”*

5] In such circumstances, it is submitted that till the aforesaid question is answered by the Larger Bench of the Supreme Court, the impugned order may be stayed.

6] Counsel has also relied upon the order passed by the Co-ordinate Bench of this Court at Principal Seat, Jabalpur, in ***W.P. No.8082/2025*** dated ***18.03.2025*** (***Managing Director Madhya Pradesh Rajya Sahkari Bank Maryadit Vs. Shri G.S. Parmar and Others***).

7] Having considered the rival submissions, on perusal of documents filed on record, as also the provisions of Section 7(7) of the Act of 1972, it is found that Section 7(7) reads as under:-

“(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:



Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount].”

(Emphasis Supplied)

8] In the considered opinion of this Court, there is no provision in the aforesaid Section to waive or reduce the amount which is required to be deposited by the employer, and in fact, it appears to be the intention of the legislature that the appeal shall not be admitted, unless at the time of preferring the appeal, the appellant either produces a Certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under Sub-Section (4), or deposits with the appellant authority such amount. Thus, there is no escaping from the aforesaid provision of law, which is mandatory in nature, and in such circumstances, if the Appellate Authority has directed the respondent to comply with the aforesaid provision, no fault can be found in the same, and a petition cannot be said to be maintainable against such order.

9] So far as the pendency of the aforesaid question regarding maintainability of the writ petition in the case of *M/s Tamil Nadu Cements Corporation Limited (Supra)* is concerned, it is trite that such pendency of the matter before the Larger Bench is not an impediment for a Court to pass the order according to the prevailing law. Thus, merely referring of a matter to a Larger Bench would not preclude a Court from passing any order. It is also found that in the



aforesaid case of *M/s Tamil Nadu Cements Corporation Limited (Supra)*, the reference is in respect of the MSME Act, 2006, and not under the Payment of Gratuity Act, 1972, and in such circumstances, it is still not known if the said reference would be applicable to all the other enactments having similar provision of pre-deposit.

10] So far as the order passed by the Co-ordinate Bench of this Court at Principal Seat, Jabalpur in the case of *Managing Director Madhya Pradesh Rajya Sahkari Bank Maryadit (Supra)* is concerned, it that case this Court it has been noted that a pure question of law was involved, and has also directed that the petitioner shall also deposit 50% of the amount of gratuity, whereas, in the present case, neither the pure question of law is involved, as apparently, a disputed question of fact is involved *i.e.*, whether at the time of employment of the respondent, the petitioner had employed less than ten employees; nor the counsel for the petitioner has submitted it the petitioner is also ready to deposit 50% of the amount.

11] In view of the same, no case for interference is made out, and accordingly, the admission is declined.

12] Resultantly, the petition is hereby *dismissed*.

13] However, the petitioner shall be at liberty to revive the appeal upon depositing the requisite amount, within a further period of one month from the date of receipt of certified copy of the order.

(SUBODH ABHYANKAR)
JUDGE