



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION (STAMP) NO.22879 OF 2026
IN
WRIT PETITION NO.9463 OF 2026

Mr. Satyam A. Surana

....Applicant

V/S

The High Court of Bombay
through Registrar General

....Respondent

Mr. Satyam A. Surana Applicant in person.

Ms. Leena Patil *for Respondent.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 11 AUGUST 2026.
PRONOUNCED ON : 25 AUGUST 2026.

ORDER:

1. This Interim Application is filed by the Advocate appearing for Petitioners in a disposed of Petition seeking a declaration that in every Petition filed under Article 226 or Article 227 of the Constitution of India, the court fees prescribed as per Entry 1 (f) of Schedule II of the Maharashtra Court Fees Act, 1959 (**Court Fees Act**) should be levied 'per Petition' and not 'per Petitioner'. The Interim Application prays for issuance of directions to the Registry to ensure uniform practice for payment of court fees on Petitions filed under Articles 226 and 227 of the Constitution of India.

2. The Interim Application is filed with a complaint that the Petitioners in the Writ Petition were made to pay court fees of Rs.250/-

per Petitioner even though same order was challenged in the Petition. The Applicant has accordingly sought refund of excess court fees paid in the Petition. The Application is filed by the Advocate complaining about lack of clarity on the subject of payment of court fees. It is contended that the litigants are put to financial loss and many petitions remain under objections on account of the Registry demanding court fees contrary to the scheme of the Court Fees Act.

3. Mr. Surana, the learned counsel who appeared in the main Petition for the Petitioners and who is also the Applicant in the Application, submits that the Registry of this Court does not follow uniform practice while numbering the Petitions filed under Articles 226 or 227 of Constitution of India. He submits that even though there is no specific provision in the Court Fees Act for payment of court fees per Petitioner, the Registry is erroneously insisting on payment of court fees per Petitioner. He submits that as per Entry 1(f)(ii) of Schedule II of the Court Fees Act, a fixed court fee is prescribed for Petitions filed under Articles 226 and 227 of Constitution of India and on the basis of plain language, the expression 'Petition' appearing in that Entry means payment of prescribed court fees on the 'Petition'. He has relied upon judgment of this Court in **Machindra Rambhau Chavan & Ors. vs. M/s. Ahmednagar Forging Ltd. & Another**¹ and of Full Bench of Allahabad High Court in **Umesh Chand Vinod Kumar and others vs. Krishi Utpadan Mandi Samiti, Bharthana and another**².

¹ 2002 SCC OnLine Bom 1316

² 1983 SCC OnLine All 638

4. Mr. Surana submits that the plain and grammatical language of Entry 1(f)(ii) enumerated under Schedule II of the Court Fees Act envisages payment of a fixed fee in respect of an 'Application or Petition' presented to the High Court. That the statutory entry does not prescribe payment of court fees per Petitioner. That significance of the expression "fixed fees" used by the legislature as the heading of Schedule II cannot be overlooked. That the legislature has contemplated payment of fixed fees against each statutory item. If the legislature had intended the fees to be calculated with reference to number of Petitioners, it could have used the words 'for each Petitioner' or 'per Petitioner' or 'for every person joining the Petition'. That there is conscious exclusion of any such words. That in any case, the expression 'Petition' cannot be read as meaning 'Petition by one Petitioner'.

5. Mr. Surana submits that the distinction between number of Petitioners and number of proceedings is fundamental and that the Act makes the latter the basis for fixed levy. He relies on judgment of Calcutta High Court in Parul Debnath & Ors. vs. Union of India and Others³ in support of his contention that the question of court fees is connected with the service sought and not the benefits expected to flow from the order.

6. Mr. Surana further submits that the Court Fees Act being a fiscal/taxing statute, the same must be interpreted strictly. He relies on the judgments of the Apex Court in Director of Income Tax (IT)-1, Mumbai vs. M/s. American Express Bank Ltd.⁴ and Gujarat State

³ 2006 SCC OnLine Cal 25

⁴ Civil Appeal No.8299 of 2015

Financial Corporation vs. Natson Manufacturing Company (P) Limited and Others⁵. That since the words "per Petitioner" are conspicuously absent from Entry 1(f)(ii) of Schedule II of the Court Fees Act, Court cannot read those words in the Entry.

7. Mr. Surana further submits that by the amendment in the Maharashtra Court Fees Act by Act X of 2018, there is a substantial enhancement proposed in the fee prescribed including an increase from Rs. 250/- to Rs. 1,250/- in the instant category. That this denotes that changes in the quantum of court fees are matters for legislature to decide and not for judicial interpretation. That the amendment, though enacted and published in the Gazette, has not yet been brought into force. Lastly, he submits that "per petitioner" interpretation would produce an anomalous and disproportionately burdensome result, especially in Petitions relating to a large group of persons.

8. *Per contra*, Ms. Patil, the learned counsel appearing for the High Court submits that the Registry follows uniform system of payment of courts fees per Petitioner in a Petition filed under Articles 226 or 227 of the Constitution of India. She has relied on judgment of Division Bench of this Court in **Santosh Narayan Gaikwad and another vs. The Registrar of the Hon'ble High Court of Judicature at Bombay and another**⁶ in support of her contention that separate court fees are required to be paid 'per petition'. She submits that the judgment of the Division Bench has been circulated in the Registry of all Benches and that therefore fixed court fees of Rs.250/- per Petition is required to be

⁵ (1979) 1 SCC 193

⁶ Writ Petition No.3634 of 2011 decided on 30 November 2016 (Nagpur Bench).

paid when multiple Petitioners join together in filing of a common Petition.

9. I have given anxious consideration to the submissions canvassed by both the learned counsel. Before proceeding further, it must be observed that this is not an adversarial litigation. Applicant is a practicing Advocate of this Court and had moved the present Application more in the interest of litigants before this Court who are required to invoke jurisdiction under Articles 226 and/or 227 of the Constitution of India.

10. The Maharashtra Court-fees Act, 1959 regulates the collection of fees and stamps for documents, plaints, and memoranda of appeal filed in courts and public offices across Maharashtra. It ensures fixed revenue collection and outlines rules for the valuation of legal proceedings.

11. For the purpose of determining the court fees payable in respect of Petitions presented before the High Court under Articles 226 and 227 of the Constitution of India, provisions of Entry 1(f) of Schedule II of the Court Fees Act are relevant. The Entry provides as under:

Schedule II

Fixed Fees

<i>Number</i>	<i>.....</i>	<i>Proper fee</i>
1. Application or petition	(f) When presented to the High Court -	
	(i) for directions, orders or writs under article 226 of the Constitution for any purpose other than the	One hundred twenty five rupees

	enforcement of the fundamental rights conferred by Part III thereof;	
	(ii) for directions, orders or writs, under article 226 for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for the exercise of its jurisdiction under article 227 thereof;	Two hundred and fifty rupees.
	(iii) in any other case not otherwise provided for by this Act.	Twenty rupees.

It must be noted that Schedule II is substituted by Mah. Act 10 of 2018 dated 16 January 2018. As per the substituted Schedule-II, the relevant entry applicable to Petition or Application filed under Article 226 or 227 of Constitution is now Entry No. 1(e)(ii) under which fixed court fees of Rs. 1250 is prescribed. However, the Amending Act is yet to be notified.

12. Thus, as of now, when a Petition is presented to the High Court for directions, orders or writs under Article 226 of Constitution of India for enforcement of any of the fundamental rights conferred by Part III of the Constitution of India or for the exercise of its jurisdiction under Article 227 of Constitution of India, a fixed court fee of Rs.250/- is payable. It is sought to be contended by the Applicant that since fixed fees of Rs. 250/- are payable on a 'Application' or on a 'Petition', the Registry cannot demand separate Court fees per Petitioner.

13. To decide the issue, it would be apt to take into consideration the views expressed by the Apex Court, by this Court and by other High

Courts. The Hon'ble Apex Court in **Mota Singh and Others vs. State of Haryana and others**⁷ has held that when different truck owners having no relationship with each other either as partners or under any other legally subsisting jural relationship of Association of Persons joined together in common Petition, each one has his own cause of action arising out of liability to pay tax individually and each such person is liable to pay court fees on the Petition. It is held in paragraph 7 as under:

“Having regard to the nature of these cases where every owner of a truck plying his truck for transport of goods has a liability to, pay tax impugned in the petition, each one has his own independent cause of action. A firm as understood under the Partnership Act or a Company as understood under the Indian Companies Act, if it is entitled in law to commence action either in the firm name or in the Company's name, can do so by filing a petition for the benefit of the company or the partnership and in such a case court fee would be payable depending upon the legal status of the petitioner. But it is too much to expect that different truck owners having no relation with each other either as partners or any other legally subsisting jural relationship of association of persons would be liable to pay only one set of court-fee simply because they have joined as petitioners in one petition. **Each one has his own cause of action arising out of the liability to pay tax individually and the petition of each one would be a separate and independent petition and each such person would be liable to pay legally payable court-fee on his petition.** It would be a travesty of law if one were to hold that as each one uses highway, he has common cause of action with the rest of truck pliers.”

(emphasis added)

Thus, in **Mota Singh**, the Apex Court has held that separate set of court fees are payable by each petitioner in a petition filed jointly when each has his own cause of action.

14. The issue of payment of Court fees on a petition filed under Articles 226 and 227 of Constitution has attracted attention of this Court on several occasions. It would therefore be necessary to take a stock of the judgments rendered by this Court on the issue.

⁷ AIR 1981 SC 484

15. In *Govindrao Atmaramji Warjurkar and another vs. The State of Maharashtra*⁸, the Division Bench of this Court has dealt with a common Petition filed by two Petitioners under Article 226 of Constitution of India, challenging an Ordinance. Apart from deciding the issue of maintainability of a joint Petition, this Court has also considered the issue as to whether separate court fees were required to be paid by each of the Petitioners. This Court held in paragraph 8 of the judgment as under:

8. Applying these tests and emphasising that these proceedings are not in the nature of suit, **it is obvious that the two petitioners before us are independently aggrieved in the matter of their business which is independent and separate from each other by the provisions of the Ordinance which is impugned and against which reliefs are sought by them.** It is indeed clear that there is no identity of business or the cause and each petitioner must be treated as seeking independent remedy under Article 226 of the Constitution before this Court. **The petition, therefore, is not a joint petition filed by two persons but two petitions combined in one.** Had this been treated by this Court to be a joint petition at the stage of making interlocutory orders like stay or injunction, the election to one petitioner could have been provided for. For all purpose the Court directed deposit of the court-fee so as to determine the nature of the petition and deferred the question of appropriation of that deposit towards the court-fee. **That being the plain position available on record and upon clear construction of the nature of the petition, it indeed follows that the deposit made on behalf of each of the petitioners should be appropriated towards the court-fee payable by each of the petitioners had he filed independent petition.**

(emphasis supplied)

Thus, when the Division Bench found that each petitioner was individually aggrieved in the matter of his own business, the petition had to be treated as two petitions combined into one for payment of court fees.

16. In *Machindra Rambhau Chavan & Ors.* (supra), Coordinate Bench of this Court interpreted Entry 1(f) of the Schedule II of the Court

⁸ AIR 1976 Bom 383

Fees Act in the manner as suggested by Mr. Surana. The Court made plain meaning to the term 'Petition' and held that the same would mean and include a petition either filed by one individual or by more individuals and as such a fixed court fee stamp of Rs. 250/- would be chargeable. It is further held that it would be doing violence to the language used in Entry No. 1 to construe that the term 'Petition' would mean petition by only one individual. This Court set aside order of the Taxing Officer directing payment of Rs. 69,250/- towards court fees. This Court held in paragraph 12 of the judgment as under:

12. In my opinion, there is no ambiguity in so far as the construction and interpretation of Entry 1(f) of Schedule II is concerned. **The term 'petition' if given its natural meaning it would be a petition either filed by one individual or by more individuals and as such a fixed court fee stamp of Rs. 250/- would be chargeable. Applying any test of interpretation, to me, it would be doing violence to the language used in Entry No. 1 to construe that the term "petition" so as to mean petition by only one individual.** Having regard to the judgments referred to hereinabove, I am of clear view that the order passed by the Taxing Officer holding that the petitioners need to pay deficit court fee of Rs. 69,250/- is wholly unsustainable in law. In the result, the revision application is allowed. The impugned order dated 8.10.2002 passed by the Taxing Officer is quashed and set aside and it is declared that the petitioners have paid proper court fee stamp as payable under Entry 1 Clause (f)(ii) of Schedule II of the Bombay Court Fees Act, 1959.

(emphasis supplied)

However, in ***Machindra Rambhau Chavan***, the challenge was to the order passed by the Industrial Court in a singular complaint filed by 227 complainants. When 227 complainants are aggrieved by an order passed by the Industrial Court, they were not expected to file 227 different petitions. Rather they are prohibited from filing separate petitions. The cause of action for them is common and not individual. Therefore they could maintain only one petition before this Court. The observations made by this Court need to be understood in the context of factual situation involved in ***Machindra Rambhau Chavan***.

17. However, the Division Bench of this Court in **The Promoters and Buildings Association and another vs. State of Maharashtra and others**⁹ directed the Registry to issue a Practice Note for insistence upon list of members whenever Petition is filed by Association or by registered/unregistered organization claiming rights in favour of their members and to certify payment of court fees *qua* each member of the Association. This Court referred to the judgments of the Division Bench in **Govindram Atmaramji Warjurkar and another** (supra) as well as in **Md. Usman Abdul Jabbar vs. Union of India**¹⁰. While issuing the said direction, this Court observed in paragraph 5 of the Order as under:

5. At this juncture, it is necessary to direct the Prothonotary and Senior Master and Registrar General of this Court to issue practice note informing all concerned in the Registry that whenever there is a petition by the association or any registered or unregistered organisation claiming reliefs in favour of their members, registry should insist upon list of members and certify payment of court fees *qua* member of the association as held by the Division Bench of this Court in judgment dated 29th June, 1976 passed Special Civil Application No.1259/1975 (Govindrao Atmaramji Warjukar v. The State of Maharashtra) and in Judgment dated 12th August, 1976 passed in Civil Revision Application No.343/1976 in Special Civil Application No.3337/1976 (Md.Usman Abdul Jabbar v. Union of India) (both unreported). Unless compliance in this behalf is reported, petition should be kept under office objection.

18. It appears that pursuant to the order passed in **The Promoters and Builders Association and another** (supra), the Registry issued a Notice/Practice Note, which became subject matter of challenge in Writ Petition No.3634 of 2011 before Nagpur Bench of this Court in **Santosh Narayan Gaikwad** (supra). The Petition was filed by a practicing lawyer and by office bearer of Amaravati Zilla Krushi Sahitya Vikreta Sangh. The

⁹ Writ Petition No.9327 of 2009, decided on 8 April 2010.

¹⁰ CRA No.443 of 1976, decided on 12 August 1976

Division Bench held that a general notice cannot be issued by the Registrar as there can be no straitjacket formula in respect of every Petition filed by association or by registered/ unregistered organization. This Court held that the Registry cannot insist upon giving names of members and for payment of court fees per member wherever juristic person approaches this Court. However, this Court clarified that when association or individuals, whether registered or unregistered, approach this Court regarding a grievance of each of the member and where benefit of the order passed by the Court would be available to each of the member of the Association, the Registry can insist upon payment of court fees depending upon number of members. This Court held in paragraphs 10 and 11 of the judgment as under:

10. In that view of the matter, we find that the Registry cannot insist upon giving the names of members and for payment of Court fees per member wherever juristic person approaches this Court.

11. It will be a different matter when an Association of individuals, whether registered or unregistered approaches this Court raising a grievance of each of the members. In such a situation, where any benefits of the order passed by the Court would be available to each of the members of such Association, the Registry may consider insisting upon giving names of members of such Association and also insisting upon payment of Court fees depending upon the number of members. **For example, if 50 shop owners, who are facing demolition, file a joint petition through the name of Association, may be the Registry would be justified in insisting upon giving names of members and direct payment of Court fees to be paid per member. Again, if 50 employees of any employer have a common grievance against their employer, then rather than filing 50 separate petitions, they may file petition through their Association registered or unregistered. In such a situation, since the benefits of the reliefs may be available to all the persons individually, the Registry may insist upon giving names of each of the employees and paying all Court fees per employee.**

(emphasis supplied)

19. Thus, the Division Bench of this Court in ***Santosh Narayan Gaikwad*** has held that when multiple Petitioners file a joint Petition, the

Registry can insist for payment of court fees per Petitioner. In my view the judgment of Division Bench in ***Santosh Narayan Gaikwad*** provides a complete answer to the issue raised by the Applicant.

20. Other High Courts have also decided the issue involved in the Petition and it would be apt to consider those judgments as well.

21. In ***Shivshankar Pandey vs Union of India***¹¹, twenty-one Petitioners working as Village Health Guides in Primary Health Centre, engaged on monthly honorarium, had filed a common Petition seeking direction for regularisation of their services. They paid single set of court fees on a plea that common relief was sought. The Patna High Court held that the Petition was filed on behalf of each of the 21 Petitioners and although they had joined together in one Petition, the Petition was required to be treated on behalf of each of the Petitioner separately. The Patna High Court therefore directed payment of court fees by each of the 21 Petitioners. The Court held in paragraph 5 of the judgment as under:

5. Here each of the petitioners is praying for regularisation of their services and for payment of salary in the scale of Class IV employee. Hence each of the petitioners are praying for individual relief. It has to be borne in mind that petition is on behalf of each of them. Although petitioners have joined together in this petition but in my opinion petition shall be deemed to have been presented on behalf of each of the petitioners separately. As each of the petitioners has common and joint interest they may be allowed to present joint petition but the petition being on behalf of each of the petitioners, each shall be liable to pay separate court fee. In my opinion, seeking common relief in a writ petition may be relevant for decision on the question as to whether joint petition can be preferred, but this issue shall have no relevance at all on the question of payment of court fee. Article I of Schedule II of the Court Fees Act provided for fixed fees on application or petition and once it is held that joint petition filed on behalf of several petitioners is, in sum and substance, petition on behalf of each of the petitioners, separate court fee deserves to be paid.

(emphasis added)

¹¹ 2002 SCC OnLine Pat 944

22. In ***Binod Kumar vs State of Jharkhand***¹² issue before Division Bench of Jharkhand High Court was whether all Petitioners were required to pay separate set of court fees or whether one court fee was sufficient. The judgment involved decision of a reference made to the Division Bench in the light of two conflicting decisions of the learned Single Judges. The Division Bench took into consideration several judgments of different High Courts including judgment of the Apex Court in ***Mota Singh*** (supra) and held that the Petitioners before it were working as para-teachers and were claiming their respective absorption in service as permanent regular teachers. The Division Bench therefore held that all of them were claiming their individual rights and there was no jural relationship between them. The Division Bench held that even though the Petitioners having similar interest, and were permitted to present a joint Petition, but for the purpose of payment of court fees, they would be required to pay separate set of court fees. The Division Bench held in paragraphs 11 to 16 of the judgment as under:

11. The Hon'ble Supreme Court in ***Mota Singh v. State of Haryana*** (1980 Supp SCC 600) has held that if the several writ petitioners, each having no jural relationship qua co-petitioners, but having similar cause of action, even then they cannot jointly file a single petition and pay only one set of court fee thereon.

12. A Single Bench of Patna High Court in ***Shiv Shankar Pandey v. The Union of India*** ((2002) 4 PLJR 665) has referred to another judgment rendered by another Single Judge in ***Ram Nandan Sharma v. The State of Bihar***, [(2001) 3 PLJR 53] and held as to what would be relevant is that two or more persons cannot join in a single application for a writ of mandamus to enforce separate claims but where the claims are same and against the same authority, two or more persons can join in a single application for a writ of mandamus. In the aforesaid case before the learned Single Judge, the writ petitioners were praying for regularization of their services and for payment of salary equal to Class IV employees. Therefore, it was held that the petitioners were praying for individual relief and they have joined the writ petition without there being any

¹² 2022 (2) JCR 210/2022 SCC OnLine Jhar 107

jural relationship between them. It has to be borne in mind that petition is on behalf of each of them. Although, petitioners have joined together in this petition but the same shall be deemed to have been presented on behalf of each of the petitioners separately as, if each of petitioners has common and joint interest, they may be allowed to present joint petition but the petition being on behalf of each of the petitioners individually, each shall be liable to pay separate court fee. It has been further held by the learned Single Judge that seeking common relief in a writ petition may be relevant for decision on the question as to whether joint petition can be preferred but this issue shall have no relevance at all on the question of payment of court fee. Finally, it has been held that relief of each of the petitioners is individual and grant of relief to one of them would not entitle the other petitioners to have the same benefits, thus, the petitioners are liable to pay separate court fee.

13. Similar view has been taken by another learned Single Judge of Patna High Court in *Manoj Kumar Choudhary v. The State of Bihar* ((2016) 4 PLJR 169) but the learned Single Judge has held that there is a difference between the common interest and similar interest. If the petitioners are pursuing common or joint interest for a class as a whole then only one set of court-fee would be required, however, in case they have suffered individual injury, then interest may be similar but would not be common. In such case separate court-fee is required to be deposited by the petitioners. In that case, the petitioners were seeking only to the extent that certain examination would be held by the respondent-University. It was further held that in case even only one of the petitioners succeeds then examination would be held and the entire class would be benefited, thus, only one set of court fee can be filed in such a situation.

14. In another decision, learned Single Judge of Patna High Court in *CWJC No. 3963 of 2015* vide order dated 8.4.2015 has held that, if quashing of notification would benefit all the writ petitioners, then it would be common and similar interest and even if such relief is granted to one of the writ petitioner, all the petitioners would automatically get benefitted as the impugned notification has to be quashed. Therefore, in that case also, it was held that separate court fee is not required.

15. A Division Bench of this Court in *Ram Naresh Singh v. Bokaro Steel Plant* (LPA No. 510 of 2012) had noticed that the petitioners were occupying different official quarters allotted to them and were claiming for their independent gratuity amount, therefore, they are claiming their rights independently and none of the co-petitioners has any common right over each other's claim. Therefore, verdict of learned Single Judge was upheld and Letters Patent Appeal was dismissed.

16. In the case in hand, all the writ petitioners, who are working as Para Teachers, are claiming their respective absorption in the service as permanent regular teachers. In our view, all of them are claiming their individual rights and there is no jural relationship between the writ

petitioners. Their cases can be of a similar interest but is not of a common interest. As mandamus has been sought for their individual absorption in service, it cannot be held that they are pursuing a common and joint interest or a class as a whole, rather they are pursuing their own interest. **Therefore, it has to be understood that they are pursuing their individual relief, although they may have similar interest. In our considered view, the petition shall be deemed to have been presented on behalf of each of the petitioners separately. If each of the petitioners has similar interest, they may be allowed to present joint petition but for the purpose of payment of court fee, they would be required to pay separate court fee.** It is not the case that in case relief is granted to one of the writ petitioners, then all the writ petitioners would be benefited automatically. Actually, separate orders of authority would be required to be passed for their absorption considering the individual case. Thus, in our considered opinion, in the present case, separate sets of Court fee is required to be filed by the writ petitioners.

(emphasis and underlining added)

23. In **M/s Gerb Vibration Control System Private Limited and others vs Assistant Labour Commissioner and Ors.**¹³, the issue before Single Judge of Karnataka High Court was with regard to the trade union espousing cause of 386 workmen by way of a common Petition. The Registry of the Karnataka High Court had raised an objection to payment of only single set of court fees. Referring to various judgments of the Hon'ble Apex Court and High Courts, the Karnataka High Court held in paragraph 21 as under:

21. Thus, where a writ petition is filed by a Union representing its members and espousing their cause collectively which ultimately may result in benefits flowing to each of its members since their claim is distinct and separate. The following illustrations would clarify the issue:

Illustration No. 1:

For instance Union representing its members were to raise a dispute with regard to termination of service of its workmen by the management and an award is passed either in favour of the workmen or in favour of the management and if either party chooses to challenge the said award necessarily the Court Fee has to be paid in respect of each workmen though common interest would be there since the cause of action in respect of each

¹³ 2012 SCC OnLine Kar 8665

workmen is distinct and separate.

Illustration No. 2:

A Trade Union on behalf of the workers were to make a claim before the Competent Authority for grant of Minimum Wages on account of refusal by the management. If an order is passed by the said Competent Authority ordering payment of Minimum Wages and the management if aggrieved were to challenge the same by paying only one set of Court Fee it would be impermissible both under sub-Rule (1) and sub-Rule (2) of Rule 7 of the Writ Proceedings Rules, in as much as workman in whose favour the order is passed will be having separate and distinct interest in the subject matter of controversy namely the ultimate benefit would flow to each of the workman. Likewise, if the order is passed against the workmen by the Competent Authority and in such a situation the Trade Union which had espoused the cause on behalf of the workmen, may prefer a writ petition by paying one set of Court Fee only, which is impermissible since its members would be having a common interest but not similar interest. Each one of the workmen has his own cause of action arising out of the liability to pay Minimum Wages by the management and as such, the petition of each one would be separate and independent petition and would be liable to pay individually the Court Fee.

Illustration No. 3:

In a given case, if a Trade Union were to raise a dispute on behalf of its workmen claiming certain amounts due and payable by the management to its workmen, by filing a claim application under Section 33-C(1) or 33-C(2) of the Industrial Disputes Act, such claim though would be common but it would not be similar and in such circumstances, Court Fee would be payable individually.
(emphasis added)

24. In **Amaravati Rajdhani vs State of Andhra Pradesh**¹⁴, the Andhra Pradesh High Court though allowed the common Petition filed by two registered Societies on behalf of its members seeking direction for payment of yearly annuity amounts as well as interest on delay payments, but directed payment of separate court fees.

25. Mr. Surana has relied upon judgment of Full Bench of Allahabad High Court in **Umesh Chand Vinod Kumar and others** (supra). Before the Allahabad High Court, a common writ petition was filed by 36 partnership firms and another common writ petition was filed by 22

¹⁴2024 SCC Online AP 1800

traders who carried on business of commission agent in finished tobacco, and in that petition, petitioner No. 2 was a registered association of which petitioner Nos. 1 to 21 were members. Petitioners therein claimed that the Mandi Samiti was not entitled to charge market fee. The ground of attack was common to all petitioners viz. that tobacco is not a specified agricultural produce and that therefore the Mandi Samiti was not entitled to charge any market fee in respect of transactions of manufactured tobacco. It was also contended that since the Mandi Samiti did not render any service, it was not entitled to charge market fee from the traders. A preliminary objection of maintainability was raised contending that the association had no *locus standi* to file petition on behalf of traders, who had independent causes of action. A reference on the issue of maintainability was made by the Division Bench before the larger Bench. Following questions were framed for answer by the Full Bench:

- (1) Whether an association of persons, registered or unregistered can maintain a petition under Art. 226 of the Constitution for the enforcement of the rights of its members as distinguished from the enforcement of its own rights?
- (2) Whether a single writ petition under Art. 226 of the Constitution is maintainable on behalf of more than one petitioners, not connected with each other as partners or those who have no other legally subsisting jural relationship, where the questions of law and fact, involved in the petition, are common?
- (3) In case the answer to question No. 1 is in the affirmative, whether only one set of court-fees would be payable on such petition or each such individual petitioner has to pay court-fees separately?

26. The Full Bench of the Allahabad High Court answered the first question holding that an association can maintain a petition for enforcement of rights of its members where members are unable to approach the Court or the case involves public injury or where the rules/regulations of the Association permit it to file such proceedings.

Question No.2 is answered by the Full Bench by holding in paragraph 38 as under:

38. Our answer to the second question is that a single writ petition under Article 226 of the Constitution by more than one petitioner, not connected with each other as partners or any other legally subsisting jural relationship, is maintainable where the right to relief arises from the same act or transaction and there is a common question of law or fact or where though the right of claim does not arise from the same act or transaction, the petitioners are jointly interested in the cause or causes of action.

27. While answering Question No.2 about maintainability of single Writ Petition under Article 226 of the Constitution of India on behalf of more than one Petitioner, the Full Bench of Allahabad High Court also answered Question No.3 about payment of court fees by holding in paragraph 41 as under:

40. Where a single writ petition by an association or by more than one person is maintainable as mentioned above, only one set of court-fees would be payable. The levy of court-fee will not depend on the number of persons who have joined in the writ petition. **But, where a single writ petition is not validly maintainable, but non the less several persons join in it, then the principle laid down in Mota Singh's case (1980 Supp SCC 600 : AIR 1981 SC 484) will apply; namely, each petitioner will have to pay court-fee separately as if he had filed a separate writ petition.** In such cases the writ petition may not, in the discretion of the Court, be dismissed outright. The defect of misjoinder of petitioners can be cured by requiring each petitioner to pay separate court-fees.

41. Our answer to the third question is that where a single writ petition by an association or by more than one person is maintainable, then a single set of court-fees would be payable. **Else, each petitioner is liable to pay separate court-fees.**

(emphasis added)

28. Thus, the Allahabad High Court in ***Umesh Chand Vinod Kumar*** (supra) has thus mainly decided the issue of permissibility to file a joint petition and has incidentally answered Question No.4 relating to

payment of court fees. A single Writ Petition is held to be maintainable where Petitioners are jointly interested in cause or causes of action, and it is only in this situation that one set of court fees are held to be payable on such a Petition. Otherwise, each Petitioner is held to be liable for payment of separate court fees. The Allahabad High Court has specifically held that where a single writ petition is not validly maintainable, but nonetheless several persons join in it, then the principle laid down in **Mota Singh's** case will apply; namely, each petitioner will have to pay court-fee separately as if he had filed a separate writ petition. Therefore the judgment of the Full Bench of Allahabad High Court in **Umesh Chand Vinod Kumar** cannot be read in support of an absolute proposition that in every case where multiple persons join as Petitioners in a petition filed under Articles 226 of 227 of the Constitution of India, the court fees need to be paid 'per Petition' and not 'per Petitioner'.

29. Mr. Surana has relied on judgment of the Calcutta High Court in **Parul Debnath** (supra) in support of his contention that payment of court fees being connected with service wanted and not benefits expected to flow from the orders. The case before Calcutta High Court involved an issue as to whether 130 persons could maintain a joint Petition by paying court fees required for 130 Writ Petitions. Thus, court fees for 130 petitioners was actually paid for maintaining a joint petition in that case. The observations about payment of court fees being connected with service wanted and not benefits expected to flow from the orders are made in the context of the issue involved before the Calcutta High Court. The Calcutta High Court held in paragraphs 12 and

13 of the judgment as under:

12. If all of them are not entitled to join in one writ petition, then they cannot remain joint petitioners in one writ petition only by paying Court-fees required for 130 writ petitions. In our view, it cannot be said that the single writ petition presented by them is hit by the rule of multifariousness, a rule of convenience only. **The question of payment of Court-fees is connected with the service wanted, not the benefits expected to flow from the orders.**

13. We agree with Advocate for the appellants that since all the 130 persons decided to question the same scheme notified by the respondents, they were entitled to join in one writ petition. We also agree with him that if all the 130 persons brought separate writ petitions, then common question of law as well as of fact would arise in all the cases. We find that he is right in saying that the writ petition did not involve more than one cause of action.

(emphasis and underlining added)

30. Thus, there appears to be consistent view taken by the Apex Court and by various High Courts and especially by this Court, that when the outcome of the petition benefits the individuals personally, separate set of court fees need to be paid even though they may be permitted to file a common petition.

31. Mr. Surana has highlighted the title of Schedule II which uses the expression “FIXED FEES” in support of his contention that the fees fixed in Entry 1(f)(ii) needs to be paid in respect of an ‘Application or Petition’. However, it needs to be appreciated that the relevant entry does not deal with the situation of filing of a joint petition by multiple persons. It is a facility recognised through judicial pronouncements. Thus, a convenient facility is made available for multiple Petitioners to come together and seek redressal of their individual grievances by filing a single Petition jointly. Filing of a joint Petition saves the other cost involved in filing multiple Petitions by similarly situated Petitioners. It

also results in saving paper, space, efforts, etc. Thus, High Court may in a given circumstance allow filing of joint Petition by similarly situated multiple Petitioners. This facility of convenience made available to the litigants cannot be misused for avoiding payment of court fees.

32. The Legislature has not used the words 'for each Petitioner' or 'per Petitioner' or 'for every person joining the Petition' principally because in a case involving redressal of rights *qua* 'a Petitioner', an individual Petition is ordinarily maintainable. It is a facility recognised by the High Court (*and not by the Court Fees Act*) under which multiple Petitioners can join together by filing of a common Petition. In a given case, where a common Petition is filed and Court is of the view that issues raised in such common Petition cannot be decided through a single Petition, it can always direct filing of individual Petitions by the Petitioners. In such a case, separate fees would be payable per Petitioner. Therefore merely because the High Court permits filing of a joint petition in the interest of saving paper, space, etc, it does not mean that the Petitioners can circumvent payment of court fees. Therefore, non-use of expressions in Entry 1(f)(ii) such as 'for each Petitioner' or 'per Petitioner' or 'for every person joining the Petition' is not conscious nor use of those words is avoided by the Legislature for enabling multiple Petitioners filing common petition to pay single set of court fees. Therefore use of the words 'Petition' or 'Application' in Entry 1(f)(ii) of the Court Fees Act cannot lead to an interpretation that in every case, one set of court fees can be paid on a Petition jointly filed by more than one Petitioners.

33. Mr. Surana has contended that strict interpretation of Court Fees Act must be made, the same being a fiscal statute. No doubt Court Fees Act is a fiscal statute enacted to collect state revenue through fees on judicial documents and processes. The Act functions as a mechanism for the State to raise public funds and offset judicial administration costs. Ordinarily therefore, when interpreted strictly like a taxing statute, the ambiguities need to be resolved in favour of the subject rather than the state. However, the Court Fees Act is not intended to regulate general civil procedure or substantive criminal and civil rights.

34. The argument of the Court Fees Act being a fiscal statute does not assist his case of the Applicant of payment of single set of court fees for multiple petitions. If the contention is accepted, then the Court will have to strictly interpret the Act and insist on filing of separate Petitions by each Petitioner for the purpose of ensuring that prescribed court fees are paid by each Petitioner. Permissibility to file a common Petition by multiple similarly placed Petitioner does not flow out of provisions of the Court Fees Act. It is a judicial recognition of right in the facts of each case by the High Court. In facts of a case, High Court may permit filing of single Petition by more than one Petitioner and in facts of another case, High Court may refuse to grant such permission. Therefore, when permission is granted for filing of single Petition by multiple persons for the sake of convenience and in the interest of costs, space, paper etc., the court fees prescribed under Entry 1(f)(ii) will still have to be paid per Petitioner and not per Petition. By permitting multiple persons to join in one Petition for saving cost, space, paper, etc., the High Court cannot cause loss to the State exchequer in terms of court fees. The intention of

the Legislature is that when a Petition is filed by a Petitioner, he/she must pay fees prescribed in Entry 1(f)(ii) of Schedule II of the Court Fees Act. It is the concession granted by the Courts for filing of single Petition by multiple persons and the legislative objective cannot be permitted to be defeated while granting such permission.

35. In my view, the issue of payment of court fees on Petitions or Applications filed under Articles 226 or 227 of Constitution of India as per Entry 1 (f) (ii) of Schedule II of Court Fees Act needs to be decided by applying the test of 'individual cause of action' versus 'same cause of action' or the test of 'common interest' versus 'individual interest'. If the Petition involves common cause of action, single court fees of Rs.250/- can be paid on the Petition even though there are multiple Petitioners. For example, if a Petition is filed under Article 227 of the Constitution of India challenging an order passed by the District Court refusing to interfere in injunction order passed by the Trial Court and if there are 10 plaintiffs in the suit, who are also petitioners before this Court, the Petition would involve same cause of action. In such case, payment of one set of court fees would be sufficient ignoring the number of persons who may join the Petition. In such illustration, the 10 plaintiffs have paid single set of court fees while filing the suit as well as single set of court fee while filing Miscellaneous Civil Appeal before District Court. If they are required to pay individual court fees while petitioning this Court under Article 227 of the Constitution of India, the same would give rise to anomalous situation and application of a different yardstick for payment of court fees in the Civil Court and District Court on one hand and in the High Court on the other. Since the cause of action is common,

which is espoused in the suit, payment of single set of court fees in a Petition filed under Article 227 of Constitution of India would be justified. Here, the relevant factor to be considered is not challenge to the same order of Trial Court or District Court but the relevant yardstick is common cause of action in the *lis*.

36. Another illustration can be in labour related disputes. Suppose a common reference is made by the Appropriate Government to the Labour Court in respect of 100 workers or if 100 workers file a common complaint of unfair labour practices under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices, 1971, and the award or order of the industrial adjudicator is to be challenged before this Court by filing a petition under Article 227 of Constitution of India, single set of court fee needs to be paid if cause is common to all. This is because the cause of action for filing the petition before this Court is common and no individual benefit is sought. If a common cause is pursued before the Labour/Industrial Court, single set of court fees can be paid. But if individual relief is sought before the Labour/Industrial Court and if order passed by this Court benefits each petitioner individually such as regularisation in service etc., separate set of court fees need to be paid.

37. Similarly, if a Petition is filed against a Municipal Corporation for performance of public duty for prevention of unauthorized construction on public amenity land, there would be common and same cause of action for multiple persons who may join together in one Petition. In such situation also, since there is no individual cause of action in respect

of multiple Petitioners and they may not individually benefit by the result of the Petition, payment of one set of court fees would suffice.

38. Another illustration can be when five members of a cooperative housing society seek disqualification of the managing committee and after losing before the Dy. Registrar and Divisional Joint Registrar, they jointly file a Petition in this Court. In such a case, what is espoused by them is a 'common' or 'same' cause of action of seeking disqualification of the Managing Committee. Each Petitioner does not receive individual benefit if they succeed in the Petition. Hence, payment of single set of court fees would suffice.

39. Thus, when relief sought benefits the group as a whole and not to individuals, payment of single set of court fees on the Petition can be accepted.

40. However, there are instances where multiple persons have individual causes of action warranting filing of individual Petitions. However, for the sake of convenience, Court permits them to maintain a joint Petition. Though such Petition may involve challenge to the same order, but the benefit flowing out of the Petition is individual to each Petitioner. To illustrate, if erroneous eligibility criteria is prescribed in an advertisement for making appointments in public employment, and 10 candidates get aggrieved by such action. They may come together and file a joint Petition, but they essentially espouse individual cause of action through common Petition. If they succeed, each of them becomes entitled to apply for public employment. Similarly, if 10 pensioners come together and claim a particular relief against the Government by filing a

common Petition. The relief sought is individual in nature and in such situation again the cause of action is individual and not common. In service matters, on most of the occasions, the causes of action are individual in nature, but group of similarly situated employees may find it more convenient to maintain a joint Petition rather than filing multiple Petitions. In all those cases what is sought to be espoused is individual causes of action through a common Petition.

41. In my view therefore, the key to the problem is to examine whether what is sought to be espoused is a 'common interest' or 'individual interest'. To paraphrase, whether 'one cause of action' is sought to be espoused in Petition or 'causes of action' relating to multiple individuals or 'individual causes of action' are sought to be espoused in one Petition. In a given case, High Court would permit multiple causes of action or individual causes of action relating to multiple individuals to be espoused through a common Petition. However, in such cases, it would be incumbent for the Petitioners to pay separate set of court fees. It is only in cases where a common cause of action is sought to be espoused that payment of single set of court fees can be accepted even though multiple persons may join in a Petition.

42. In the present case, the main Petition was filed by Rohinton Adi Zaiwala, Rohit Omprakash Bahuguna, Sujoy Neogi, Prashant N Jadhav, Divyesh Pravinkumar Mehta, Trivedi Jaykumar Jagdishbhai, Pinkal Mukundbhai Thakor, Thakar Dhirenkumar Ashvinbhai, Chaudhary Samar Nath, Narendra Maruti Nadkarni and Yogeshkumar Dipakkumar Panchal (Petitioners). The case does not even involve filing of common

Petition through an association, but individual Petitioners had filed the present Petition claiming benefits of pension and pensionary benefits including arrears etc. Their claim was for payment of higher pension. Thus, upon allowing the Petition, each Petitioner would receive individual benefit. Therefore, each Petitioner was required to pay separate set of court fees as per Entry 1(f)(ii) of Schedule II of the Court Fees Act.

43. It is accordingly clarified that separate court fees under Entry 1(f)(ii) of Schedule II of the Court Fees Act is payable on a Petition filed under Articles 226 or 227 of the Constitution of India 'per Petitioner' and not 'per Petition' when individual causes of action of Petitioners are sought to be espoused in the joint Petition. Separate set of court fees would be payable 'per Petitioner' when the outcome of the Petition individually benefits the Petitioners. It is only in cases where 'same' or 'common' cause is sought to be espoused in a petition filed by multiple Petitioners (either individually or through association), payment of one set of court fees would suffice.

44. The Interim Application is accordingly **disposed of**.

(SANDEEP V. MARNE, J.)