

R.M. AMBERKAR
(Private Secretary)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**WRIT PETITION NO. 352 OF 2018
WITH
NOTICE OF MOTION NO. 196 OF 2018**

Ramesh R. Kurhade

.. Petitioner

Versus

Financial Adviser and Chief Accounts Officer,
Establishment Section & Ors.

.. Respondents

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- Mr. Dilip Sawant for the Petitioner
 - Mr. Rakesh Singh i/by M.V. Kini for Respondent Nos. 1 to 3
 - Mr. Adwait Sethna a/w Mr. A.R. Gole & Ms. R.R. Thakker for Respondent No. 4
 - Mr. Sukanta Karmakar, AGP for the State
 - Mr. Patil, Officer of MBPT Present
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**CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE : JUNE 20, 2019.

P.C.:

1. The petitioner's main prayer is for direction to the respondent No. 4 to withdraw the circular dated 23.12.2015. This circular requires the employees of Mumbai Port Trust to submit their Aadhar Card Number for linking it to salary payment. Time was granted till 15.2.2016 to do so failing which the Circular provided that their salary from the next month will not be processed. The petitioner had objection to

providing such details. His stand was his employer cannot insist on linking Aadhar Card Number before releasing his salary.

2. Since the petitioner did not provide such details, the employer - Mumbai Port Trust did not release his salary. During pendency of the petition, said situation continued to prevail. The petition was filed at a stage when the permissibility of linking of Aadhar Card details with various schemes and payments was under challenge before the Supreme Court. The very Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 was under challenge before the Supreme Court in the case of **K.S. Puttaswamy (Aadhar) Vs. Union of India**. Certain interim orders were passed. Eventually, the Supreme Court delivered its judgment in case of K.S. Puttaswamy (Aadhar)¹. The issues are therefore now clear and have achieved finality.

3. Mumbai Port Trust has also released the salary of the petitioner which was withheld nearly for thirty months

¹ (2019) 1 SCC 1

without now insisting the petitioner to link his Aadhar Card with salary payment. The majority portion of the petitioner's grievance, therefore, stands resolved. However, learned counsel for the petitioner submitted that as the salary was withheld without authority of law by the employer, the petitioner must be paid interest on delayed payment of salary.

4. Learned counsel for the Mumbai Port Trust mainly contended that the issues were pending before the Supreme Court. There was no clarity on the question of linking aadhar card with salary payments. The Government directed the Port Trust to link the Aadhar Card details of the employees. The petitioner was sole employee out of nearly 800 employees who had objected to this.

5. None of the contentions would persuade us to deny the interest on the delayed payment of salary. Firstly, because the petitioner was a sole objector can hardly be a ground to test the correctness of his stand. Secondly, the respondents are not in a position to show any authority under which they

could have withheld the salary of an employee simply because of pending clarity in the proceedings before the Supreme Court the petitioner refused to divulge his Aadhar Card details. Now that the Supreme court has given its final verdict pursuant to which his salary is also released, the petitioner must receive reasonable interest on delayed payment.

6. Under the circumstances, the Mumbai Port Trust shall pay simple interest @ 7.5% per annum to the petitioner on delayed payment of the salary. The same shall be done latest by 31st July, 2019. Petition disposed of.

7. In view of disposal of Writ Petition, nothing survives in Notice of Motion. The same is also disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]