

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2036/2014

Municipal Council, Yavatmal

..Versus..

Hind Majdur Kisan Panchayat, Yavatmal and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 17.3.2015

Heard Shri D.M. Kale, the learned advocate for the petitioner.
None appears for the respondents.

The petitioner/Municipal Council has challenged the order passed by the Assistant Labour Commissioner allowing the claim of the employees in respect of their entitlement for the difference of payment as per the provisions of Minimum Wages Act, 1948. As per the impugned order, 15 labourers whose names are shown in the list filed along with the claim before the Assistant Labour Commissioner are entitled for Rs.1,630/- each along with compensation of Rs.1,630/- and further amount of Rs.7,332/- for the holidays. By the impugned order the liability of payment is saddled on the petitioner and the respondent no.2/Society.

Shri Kale, the learned advocate for the petitioner has submitted

that as per the agreement between the petitioner and the respondent no.2/Society, the liability of payment according to law is of the respondent no.2/Society. He has relied on Clauses 17 and 20 of the agreement in support of the above submission. It is submitted that the Assistant Labour Commissioner has committed an error in not considering the above referred clauses and saddling the liability on the petitioner/Municipal Council.

As far as the entitlement of the 15 labourers to receive the amount as directed by the Assistant Labour Commissioner, is neither disputed nor the findings recorded by the Assistant Labour Commissioner in that regards can be faulted with. The record shows that the petitioner/Municipal Council was not represented before the Assistant Labour Commissioner and the lapse is on the part of the petitioner/Municipal Council to raise the defence and point out the relevant documents to the Assistant Labour Commissioner. Be that as it may, the agreement between the petitioner/Municipal Council and the respondent no.2/Society cannot absolve it of its primary responsibility in the matter.

In view of the above, I see no reason to interfere with the impugned order in exercise of the extraordinary writ jurisdiction. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

It is clarified that the petitioner/Municipal Council will be at liberty to settle its accounts with the respondent no.2/Society according

to law.

C.A.W. NO.1216/2014.

In view of the disposal of the writ petition this application does not survive and is disposed of accordingly.

JUDGE

Tambaskar.