

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

W.P.No. 171 of 2013

JSW Ispat Steel Limited vs. State of Maharashtra and others.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

**CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ**

DATE : 25.3.2015

Heard Advocate Shri Firdos Mirza with Advocate Shri S.N. Kumar for petitioner, Mrs. T.H. Khan, AGP for respondent no.1 and Advocate Shri Atul Pande, for respondent no.2. There is no appearance for other respondents.

2. Shri Firdos Mirza, has invited our attention to the provisions of Section 6(3) of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (hereinafter referred to as "1969 Act"). He submits that the Board, being constituted as Mathadi Board since the year 2011, does not have representative capacity as envisaged by Section 6(3) of 1969 Act. He has invited our

attention to Board as constituted in the year 2011 and information in relation to its members obtained under the Right to Information Act on 24.10.2011. According to him, most of the members were nominated on Board on extraneous consideration without finding out whether they represent either the employers or the workmen. He further states that when the Board was reconstituted on 28.2.2013, four names were deleted and five names were added. But, again this was done mechanically. On 1.3.2013, exercise of addition and deletion has been further carried out but there is no representative character to that Board. He submits that the petitioner and other four or five Steel Industries, which pay 90% of the total revenue received by the Board, do not figure anywhere in it. He has also invited our attention to some documents to show only on account of political affinity and recommendations of the leaders, membership of the Board is being distributed as if a favour is being conferred on the recipients. His argument is that this, therefore, defeats the very purpose of enacting 1969 Act.

3. Mrs. T.H.Khan as also Advocate Shri Pande disputed this. They contended that the documents appended

to the petition later on have not been supplied to them and, therefore, they are not in a position to dispute the same. However, the learned AGP submits that the representative character of the Board can be seen from the Notification, by which, it has been constituted. She further submits that it is in the discretion of the State Government and hence the representative of the petitioner may not find birth in that Board but that by itself is not sufficient to hold the nominations bad.

4. Shri Mirza submits that after August, 2014 there is no Board. The learned AGP submits that there is no such averment in the petition.

5. We do not wish to go into these controversies. We find that the Board was constituted in the year 2011, then in February, 2013 and March, 2013, there have been some alterations.

6. The petitioner has specifically averred in the writ petition that out of total mathadi wages paid by the Board, they contribute 90%. This assertion has not been denied by the respondents. The respondents also have not pointed out that

any name was forwarded by the petitioner and it was considered and rejected. The petitioner also has not come up with a case that it forwarded the names of its representatives for inclusion as members of the Board and that has not been looked into.

7. But, then the papers on record show that under the Right to Information Act, the respondent no.1 could not point out the owners or employers being represented by certain members of the Board, like Shri Sanjay Agrawal, Shri Rajesh Makde, Shri Prakash Bopulkar and Shri Rajan Chandar Khosla or whether Shri Gangadhar Rewatkar or Shri Vinod Maruti Raut are the representatives of the employees. Though these names figure as members of the Board in the year 2011, we have mentioned the same only by way of illustration.

8. Section 6(3) of the 1969 Act expressly obliges the State Government to constitute a Board and members can be nominated from time to time, provided those members represent either employers or unprotected workers. These persons, who do not represent either the employers or unprotected workers, cannot be the members of the Board.

When a person is nominated on Board, the State Government will definitely have data with it to show that he has been placed on Board as representative of either employers or unprotected workers. Absence of such data with the State Government may show something else. In this situation, as we find that petitioner claims to represent 90% of the revenue/ wages which mathadi workers earn in the area, we allow the petitioner leave to make a representation in detail pointing out all these aspects. If such a representation is made within a period of three weeks from today, the respondent no.1 shall consider it in accordance with law within a further period of eight weeks. Leaving all rival contentions in this respect open and with these directions, we partly allow the petition and dispose of the same. No costs.

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