

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6148 OF 2014

Ahmednagar Zilla Shet Majoor
Union, Trade Union Centre,
Tahsil Kacheri Road, Ward No.1,
Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar

..Petitioner

Vs.

1. The State of Maharashtra,
Through Secretary for Labour
Department, Mantralaya,
Mumbai

2. State Advisory Board,
State of Maharashtra
Contract Labour (Regulation
and Abolition) Act, 1970
Kamgar Bhawan, Block E.B.
Bandra (East), Kurla Sankul-51

3. Mahatma Phule Krishi Vidyapeeth
at Post University, Taluka Rahuri,
Dist. Ahmednagar
Through its Registrar

..Respondents

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Mr.P.V.Barde, Advocate for petitioner
Mr.M.M.Nerlikar, AGP for respondent nos.1 and 2
Mr.Pradeep Shahane, Advocate for respondent no.3

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : DECEMBER 13, 2016**

ORAL JUDGMENT :

Heard.

2. Rule. Rule made returnable forthwith. With consent of the parties, the petition is taken up for final hearing at the admission stage.

3. The petitioner is a recognised Trade Union with respondent no.3 - employer. The petitioner moved an application to respondent no.2 seeking prohibition of employment on contractual basis in view of bar contained in Section 10 of the Contract Labour (Regulation and Abolition) Act, 1971 ("the Act", for short).

4. In this petition, the petitioner is praying for issuance of directions for consideration of application tendered by it with respondent no.2 on 09.01.2010 in accordance with the provisions of Section 10 of the Act. Section 10 of the Act provides thus :-

"10. Prohibition of employment of contract labour

(1) Notwithstanding anything contained in this Act, [but, subject to the provisions of Clause (c) of sub-Section (5) of Section 1] the appropriate government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the *Official Gazette*, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as-

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation

that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration, having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation - If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate government thereon shall be final."

5. Since the application tendered by the petitioner is pending with respondent no.2 since last six years, respondent no.2 needs to be

directed to decide the application of the petitioner expeditiously.

6. Respondent no.2 is directed to take a decision on the application tendered by the petitioner referred to above, on its own merits and in accordance with law and on consideration of the policy formulated by the State Government in that behalf, as expeditiously as possible and preferably, within a period of six months from today.

7. Rule made absolute accordingly. There shall be no order as to costs.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]