

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6514 OF 2016

Rajendra Gavit and Others.

..Petitioners.

Versus

State of Maharashtra & Others.

..Respondents.

Ms. Neeta Karnik for the Petitioner.

Mr. A. A. Kumbhakoni, Senior Advocate a/w Mr. A. B. Vyagani,
Government Pleader and Mr. V. M. Mali, AGP for Respondent
Nos. 1 to 4.

Mr. S. S. Deshmukh for Respondent No. 6.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 16, 2016.**

P. C. :

1. Heard Ms. Neeta Karnik, the learned Counsel appearing for the Petitioner, Mr. Kumbhakoni, the learned Senior Counsel appearing for Respondent Nos.1 to 4 and Mr. Deshmukh, the learned Counsel appearing for the Respondent No. 6.

2. In exercise of the powers under section 4 of the Maharashtra Labour Welfare Fund Act, 1953 [for short "the said Act"], on 25th February 2014 the Respondent-Government constituted the board for the whole of the State of Maharashtra for the purpose of administering the fund. The Petitioners are

the nominated members of the said Board. By the impugned order passed by Respondent No.2 under section 18(1) of the said Act, this Board is superseded and therefore the Petitioners, being aggrieved, have approached this Court under Article 226 of the Constitution of India.

3. The record reveals that before superseding the Petitioners, i.e., each of the nominated members, were served with the notice under section 18(1) of the said Act on 6th April 2015. Notice contained the charges and called upon the Petitioners to state as to why the board should not be superseded. In pursuance of these notices, the Petitioners filed common reply. Respondent No.2 also granted an opportunity of hearing to the Petitioners and thereafter passed the impugned order superseding the board.

4. We have considered the rival contentions of the parties and have gone through the notices as well as the impugned order and also the relevant provisions of the said Act. There are total four charges levelled against the Petitioners. The first charge was that without approval under section 14(2) of the said Act, the Petitioners decided to pay minimum wages payable

to the full-time employee to 218 part-time employees. The Petitioners also decided to pay half of the minimum wages payable to the full time employee to 420 part-time employees. The second charge is that the Petitioner decided to purchase the land at Kolhapur @ Rs.1,18,360/- per sq. mtr. when the rate in accordance with the ready reckoner was Rs.29,580/- per sq. mtr. The third charge is about extension of permission to use the premises of the Board at Worli granted to one Sankalp Pratishtan. The fourth charge is that the decision is taken, without sufficient reason, to start a branch office of the Board at Sangli.

5. Ms. Karnik, learned Counsel appearing for the Petitioner pointed out that the decision to give minimum wages to employees was taken in accordance with the law. She also submitted that the transaction referred to in second charge was subsequently cancelled and has not caused any financial loss to the board. In respect of third charge, she mentioned that a note was put up by the administration for renewal of the permission to use to Sankalp Prathishthan. Regarding fourth charge, she submitted that the board was already having premises at Sangli

and therefore there is no loss.

6. Mr. Kumbhakoni, the learned Senior Counsel appearing for the Respondents pointed out that the decision referred to in first charge is in contravention of the provisions of section 14 of the said Act and therefore the board suffered loss to the tune of Rs.1.899 crores. Regarding second charge, he submitted that what is important is that board intended to purchase the premises at Kolhapur at exorbitant rate and the decision was cancelled due to notice by the Government. So far as the third charge is concerned, he submitted that the board in their discretion could have refused the extension of permission to use the said premises to Sankalp Prathishthan. So far as the last charge is concerned, he submitted that even assuming that the premises belonging to the Board is available at Sangli, still the board is required to employ persons and to incur the expenses.

7. Section 18(2) of the said Act deals with the supersession of the board constituted under section 4 of the said Act. Under this section, the Government on being satisfied that

the board has made default in performing duties imposed on it by or under the said Act or has abused its power, may by notification in the official gazette supersede and reconstitute the board after giving reasonable opportunity to the board to show cause why it should not be superseded. There is no dispute that board was given the reasonable opportunity to show cause. The Government by passing a reasoned order has recorded the subjective satisfaction that the board consisting of the Petitioners has made defaults in performing its duties and has also abused its powers. Thus the subjective satisfaction is supported by the reasons. Having gone through the reasons, the action on the part of the Government in superseding the board cannot be said to be arbitrary. Taking totality of the facts and circumstances into consideration, we are not inclined to entertain the writ petition. Hence, the same is dismissed.

. At this stage, learned Counsel appearing for the Petitioner seeks stay to the impugned order. The learned Senior Counsel appearing for the Respondents opposed the request. Since the Petitioners were protected till today by the order dated

29th October 2015 passed in Writ Petition St. No. 29297 of 2015, the same protection is extended for the period of four weeks from the date of receipt of this order.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]