

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO. 9908 OF 2016***

M/s. Tata Autocomp Systems Ltd. ... Petitioner  
Vs  
1. Pimpri Chinchwad Mathadi &  
Unprotected Workers Board & Ors. ... Respondents

Mr. K.M. Naik, senior counsel with Mr. S.P. Salkar, Mr. Hemant Telkar and Ms. Priyanka Patil for the Petitioner.

Mr. M.S. Topkar with Mrs. Pavitra Manesh for the Respondent No.1.

***CORAM : S.C. DHARMADHIKARI &  
B.P. COLABAWALLA, JJ.***

***WEDNESDAY, 7TH DECEMBER, 2016***

***P.C. :***

1. The Pimpri-Chinchwadi Mathadi and Unprotected Workers Board constituted under Section 6(1) of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969, has, according to the petitioner, by the impugned order, mandated that the petitioner must employ 23 registered workers and their failure to employ them would visit them with severe civil consequences. Mr. K.M. Naik, learned senior counsel appearing for the petitioner would submit that both the communications at pages 65 and 72 of the

paper-book dated 18<sup>th</sup> May, 2016 and 8<sup>th</sup> July, 2016, are virtually final orders. Therefore, the consequences would follow.

2. He states that in compliance with the ad-interim order passed by this Court on 19<sup>th</sup> October, 2016, an affidavit has been filed by the petitioner and additional affidavit would indicate as to how the petitioner has throughout maintained that they have not employed any unregistered workers / mathadi workers in place of the concerned 23 workers of the above Board.

3. Then, they have said that the petitioner's requirement of the work force does not enable them to employ all the 23 workers in issue.

4. He would submit that these and the other contentions, particularly set out in the grounds of this writ petition have never been considered. Now the petitioner apprehends coercive measures.

5. On the other hand, Mr. Topkar appearing on behalf of the first respondent-Board states that the Board is constituted under

the Act so as to protect the interests and general welfare of the workers styled as mathadis, hamal and other manual workers. The petitioner is the principal employer. The petitioner is an establishment registered with the Board. In view of the work and the requirement, the respondent deployed Toli No.507 comprising of 36 workers. These were deployed for the petitioner's establishment and were working since 2008. While Mr. Topkar does not dispute that there was a suit filed in the Civil Court and there is an interim order which the petitioner relies upon, that cannot be utilised to defeat the mandate flowing from the Act. It is in these circumstances that the respondent-Board has passed an order on 3<sup>rd</sup> August, 2016. The petitioner was directed to remit the sum of Rs.8,55,962/- being wages of 23 workers from 12<sup>th</sup> May, 2010 to 30<sup>th</sup> June, 2016.

6. All allegations of denial of the principle of natural justice are controverted. They are not admitted.

7. Reliance is placed by Mr. Topkar on the order dated 30<sup>th</sup> August, 2016, in this writ petition, copy of which is annexed to the affidavit-in-reply by the Board.

8. After having perused the writ petition, all annexures thereto as also the affidavits, we are of the opinion that the interest of justice would be served if we direct the first respondent-Board to comply with the principles of natural justice by taking into consideration all the materials that are relied upon by the petitioner. Since the dispute is entirely factual, we do not think that the High Court should entertain a writ petition. It is eventually for the Board to determine as to whether the petitioner's entire Toli was deployed and comprising of 36 workers. Whether these workers throughout reported for work and were given work by the petitioner. The Board will have to determine as to whether the workers' conduct was disorderly or indisciplined forcing the petitioner to approach a civil court. Finally, it is for the Board to determine whether there was any order in favour of the petitioner passed by a civil court and the petitioner was obliged to provide work to these mathadi workers and/or pay them wages. These and the other contentions do not seem to have been considered. They are merely noted in the order passed on 30<sup>th</sup> August, 2016. However, we do not think that any reason was assigned so as to pass the eventual order and

direction to the petitioner to employ these 23 workers and pay their wages. Even the directions to pay the differential wages has not been passed after due consideration of the claims in the petition. Pertinently, the order is passed during the pendency of this writ petition.

9. In the light of the above, the writ petition is disposed of with a direction to the Board to hear the petitioner and all affected parties once again. The Board should pass a fresh order and as stated, within a period of four weeks from today. The Board should not be influenced by any conclusions in the earlier order. Till the Board passes the order in terms of our directions, the ad-interim order passed on 19<sup>th</sup> October, 2016, in this petition shall continue. We clarify that we have neither accepted the case of the petitioner nor have we expressed any opinion on the rival contentions. The claims and counter claims are all kept open for consideration in the fresh round directed above.

10. The writ petition is, accordingly, disposed of.

***B.P. COLABAWALLA, J.      S.C. DHARMADHIKARI, J.***