

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10486 OF 2016**

Ekjut Bharatiya Kamagar Va
Vahatuk Sanghatana ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

**WITH
CIVIL APPLICATION No.2786 of 2016
IN
WRIT PETITION NO.10486 OF 2016**

Sahebrao Govind Jadhav ... Applicant

IN THE MATTER BETWEEN

Ekjut Bharatiya Kamagar Va
Vahatuk Sanghatana ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

...

Mr. A. K. Jalisatgi a/w. Mr. Ratnesh R. Mishra for the petitioner.

Mr. C. P. Yadav, Asstt. Govt. Pleader, for the State.

Mr. Rahul D. Oak i/b. Mr. S. M. Chinchwadkar for respondents 3 & 4.

Mr. Rahul D. Oak i/b. Mr. B. S. Mahamulkar for respondents 5.

Mr. Kiran Bapat for intervenor in CAW/2786/2016.

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**CORAM : ANOOP V. MOHTA &
G. S. KULKARNI, JJ.**

DATE : 25 October, 2016.

ORDER:

1. The challenge in the petition by the petitioner – Trade Union is to order dated 19 August, 2016 passed by respondent no.2 - Joint

Commissioner, whereby the Joint Commissioner by one line order has granted a stay to his earlier order dated 14 July, 2016 passed by him. By order dated 14 July, 2016, the Joint Commissioner had directed appropriate action to be taken in accordance with the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 and Rules by the respective Mathadi Boards, so that work is provided to different unemployed Tolis.

2. The case of the petitioner is that the workers also are the members of the petitioner undertake the mathadi work with the concerned Establishment.

3. After hearing, the learned counsel for the parties and the learned counsel for the intervenor, it is quite apparent that there is dispute interse between the parties in respective of the work to be performed by the concerned tolis at the said establishment which appear to be of a peculiar nature (a-mall).

4. From a perusal of order 14 July 2016, it appears that an attempt was made by the Joint Commissioner, to resolve the issues. A grievance of Mr. Bapat is that Intervenor was not heard when this order came to be passed. However, the fact remains so far no individual proceedings were initiated by the Intervenor to challenge this order if the Intervenor were to be aggrieved by the same.

5. Be that it may considering the nature of the grievances, we are of the opinion that the issues are required to be resolved by the Joint Commissioner who has passed order dated 14 July, 2016 and the impugned order dated 19 August, 2016. The impugned order dated 19 August, 2016 in no manner would entail to the benefits of any of the

parties. Admittedly the petitioner as also the Intervenor are not working as of date. It is said that these issues have also created law and order situation. This is surely not what is expected. We, therefore, direct the Joint Commissioner to hear all the concerned parties i.e. the petitioner, the respondents, the Intervenor and also concerned Mathadi boards and any other parties who are likely to be affected and after hearing all these concerned parties pass an order in accordance with law. The parties agree to appear before the The Joint Commissioner or the concerned incharge on 27 October, 2016 at 11.00 am.

6. As none of the workers / tolis are working as on date, the petitioner and any other similar situated tolis are permitted to make an application for an interim arrangement so that all these tolis can be assured work. If such an application is made on or before 27 October, 2016 then the Joint Commissioner shall decide the same after hearing all the parties within a period of two weeks thereafter. All the contentions of the parties are expressly kept open.

7. Needless to observe that if any interim arrangement is made and it enures to the benefits of any of the tolis or parties, the affected parties shall strictly adhere to the orders, and shall not create any situation of law and order and more particularly as it would be an interim order, till the issues are finally resolved by the Joint Commissioner.

8. In the light of the above observations, order dated 19 August, 2016 and consequential order dated 14 August, 2016 issued by respondent no.3 are quashed and set aside. We may also observed that the parties have fairly consented for the above order to be passed.

9. Writ Petition is disposed of in the above terms. In view of the disposal of the writ petition, Civil Application No.2786 of 2016 stands disposed of.
10. All contentions of the parties are expressly kept open.
11. The parties to act upon the authenticated copy of this order.

(G. S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)