

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

WRIT PETITION NO.4379 OF 2015

Sudhakar Mohurley, Commission Agent, APMC, Mul, Dist. Chandrapur.

-vs-

The State of Maharashtra, Thr. its Secretary, Industries, Enegy and Labour Dept.
Mantralaya, Mumbai and ors.

Office 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 &
A.S.CHANDURKAR, JJ.**

DATE : AUGUST 25, 2016

Heard Shri H. S. Chitaley, learned counsel for petitioner,
Shri N. R. Rode, learned Assistant Government Pleader for
respondent No.1/State, Shri A. R. Patil, learned counsel for
respondent Nos.2 and 3 and Shri R. J. Kankale, learned counsel
for respondent No.4.

Perused reply affidavit as also judgment delivered by
Aurangabad bench on 05/11/2004 in W.P. No.1340/1992 with
W.P. No.2268/1992 with other matters.

During hearing we find that recovery questioned before this
Court by the petitioner-Commission Agent is for the period from
December 2011 to December 2013.

The respondent Nos.2 and 3 have not pointed out the
number of registered Hamals provided for working in market yard
of respondent No.4 Agriculture Produce Market Committee during

said period.

Other dispute raised is about the person from whom the levy should be collected. According to the petitioner being Commission Agent, he cannot control Hamals. The goods are brought at the establishment of a trader and therefore establishment of trader at the most can be registered with the respondent Nos.2 and 3.

Our attention is also invited to a receipt dated 02/06/2011 issued by Mathadi and Unprotected Labour Board, Chandrapur to Agriculture Produce Market Committee, Chandrapur. Learned counsel for the petitioner submits that it is Agriculture Produce Market Committee's establishment which is registered with the Mathadi and Unprotected Labour Board.

Material on record is insufficient to decide the controversy by this Court.

It is apparent that unless and until establishment of employer is registered and need of Mathadi labourers therein and their number is ascertained, the scheme cannot be implemented. The petitioner admittedly is not registered with the Mathadi Board. Similarly, respondent No.4-Agriculture Produce Market Committee is also not registered. The respondent Nos.2 and 3 have not pointed out number of Hamals provided as Mathadi labourers by them during the period from December-2011 to December-2013. License to work as Hamal is issued by respondent

No.4. Hence several disputed questions arise.

Therefore we direct respondent Nos.2 and 3 to hear the petitioner as also respondent No.4 and such other persons as may be interested in issue before proceeding to effect any recovery.

We direct the petitioner and respondent No.4 to appear before the respondent No.2 on 21/09/2016 and make appropriate representation pointing out their side and view of the matter. After receipt of such representation, the respondent No.2 shall proceed to pass appropriate orders keeping in mind the provisions of Maharashtra Mathadi Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969, Schemes therein as also provisions of the Maharashtra Agriculture Produce Marketing (Regulation) Act, 1963.

The orders shall be passed within next four weeks. With these directions and keeping all rival contentions open and subject to such adjudication by respondent Nos.2 and 3, we quash and set aside the order of recovery dated 30/03/2015 at Annexure-F.

Writ petition is disposed of in aforesaid terms with no order as to costs.

JUDGE

JUDGE

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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Personal Assistant

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