

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

WRIT PETITION NO. 1437 OF 2003

1. Galaxy Surfactants Ltd.
a company incorporated under
the Companies Act, 1956 and having
its factory at Plot No. V 23, MIDC,
Taloja, Tal. Panvel, Dist. Raigad
 2. Mr. Unathan Shekhar
 3. Mr. Gopalkrishna Ramkrishnan
 4. Mr. Sudhir Patil
 5. Mr. Shashi Shanbhag
C/o Galaxy Surfactants Ltd.
having its factory at Plot No. V 23,
MIDC, Taloja, Tal. Panvel, Dist. Raigad
- ... Petitioners

vs.

1. State of Maharashtra
 2. Government Labour Officer and
Inspector under the Maharashtra
Workmen's Minimum House Rent
Act, 1983 at Panvel.
- ... Respondents

Mr. Sudhir Talsania, Senior Advocate a/w Mr. R. G. Sheth, Ms.
Pinky Chainani i/by M/s. R. G. Sheth & Co., for the petitioners.
Ms. N. S. Jain, A.P.P. for the State/respondent nos.1 and 2.

Coram : Smt. R. P. SondurBaldota, J.

Date : 23rd February, 2017

JUDGMENT :

1. This petition seeks quashing of Complaint No. 6181 of 2003 wherein it is alleged that the petitioners have committed breaches of Section 4 of the Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 ('the Act', for short), Section 8 of the Act r/w rule 12 of Maharashtra Workmen's Minimum

House Rent Allowance Rules, 1990 ('the Rules', for short), Section 8 of the Act r/w rule 11 of the Rules and rule 12 of the Rules punishable under Section 10(2) of the Act. The act constituting breach of the provisions is, the petitioner management not paying house rent allowance to the workers of the Contractors engaged by petitioner no.1 Company.

2. Respondent no.2 had inspected the establishment of petitioner no.1 Company and its 10 Contractors on 5th September, 2002. By way of his inspection remarks respondent no.2 called upon the petitioners to comply with following requisitions :

“1. The management is why not paying the House Rent allowance to the workmen as provided under Section 4 of the said Act to contract workers.

2. The management shall maintain a register of workmen in form “I” prescribed under Section 8 read with Rule 12.

3. The management shall maintain a register of house Rent Allowance in Form “A” prescribed under the Section 8 read with Rule 11.

4. The management shall maintain a visit book as provided under Rule 13 of the aforesaid Rules.”

Petitioner no.1 by its letter dated 13th September, 2002 informed that it was meticulously following the Act on the Rules for its workers and that as regards the workers of the Contractor it was the Contractor who was liable to pay house rent allowance and not to petitioners. Respondent no.2 apparently was not satisfied with the answer and filed Criminal Complaint No. 6181 of 2003 in the Court of Judicial Magistrate

First Class at Panvel.

3. Mr. Talsania, the learned Senior Advocate appearing for the petitioners points out that the definition of the workman at Section 2(i) of the Act does not include the workers of the Contractors. Perusal of the provision confirms the submission. Section 2(i) of the Act defines workman in following terms :

"2. In this Act, unless the context otherwise requires,-

(i) "workman" means a workman as defined in the Industrial Disputes Act, 1947, or an employee as defined in the Bombay Industrial Relations Act, 1946, as the case may require."

Bare reading of the above provision is sufficient to know that the workers of a Contractors are not covered thereunder. For them it is the Contractor, who is their employer, who would be liable to follow the Act and pay house rent to them. Therefore the complaint filed by respondent no.1 against the petitioners is clearly a misconceived action on their behalf and cannot be sustained. Hence the petition is allowed in terms of prayer clause (a).

[Smt. R. P. SondurBaldota, J.]