

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8424 OF 2016

Shivaji Maruti Tone and Others	...Petitioners
vs.	
State of Maharashtra and Others	...Respondents

Mr. Manoj Patil i/b. Suman Lengare, for the Petitioners.
Mr. P.P. More, AGP for the Respondents-State.
Mr. Siddhesh Shetye i/b. Rahul Oak, for Respondent No.3.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : JULY 07, 2017

P.C.:

- . Not on board. Upon mentioning taken on board.
2. Parties through their counsel.
3. Through this Petition filed under Article 226 of the Constitution of India, the Petitioners have claimed various reliefs. However, during the course of hearing, learned counsel for the Petitioners pressed the only relief so far as it relates to prayer clause 25(b).
4. As regards the other reliefs, he seeks leave to take appropriate steps before appropriate Forum. With that liberty, the other prayers are treated as not pressed.

5. The prayer clause No. 25(b) reads thus:

“That this Court by way of appropriate Writ, Order or Direction be pleased to direct the Respondent No. 1 to constitute the Board as per the provisions of Section 6 of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969”.

6. Section 6 of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 reads thus:

“S.6 : Constitution of Board:-

1. *The State Government may, by notification in the Official Gazzette, establish a Board to be known by such name as may be specified in the notification of any scheduled employment in any area. One or more Boards may be appointed for one or more scheduled employments, and for one or more areas:*

Provided that, the Boards established for the scheduled employments specified in column 4 of the Table appended to sub-section 4A of Section 1 in the area of Greater Bombay shall be the Boards deemed to have been established also for such scheduled employments, in the areas and on the dates specified in columns 2 and 3 of the said Table, respectively.

2. *Every such Board shall b e a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may by that name, sue or be sued.*

3. *The Board shall consist of members nominated from time to time by the State Government representing the employees, the unprotected workers and the State Government.*

4. *The members representing employees and*

unprotected workers shall be equal in number, and the members representing the State Government shall not exceed one third of the total number of members representing employees and unprotected workers.

5. *The Chairman of the Board shall be one of the members appointed to represent the State Government, nominated in this behalf by the State Government.*

6. *After nomination of all the members of the Board including the Chairman the State Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.*

7. *The term of office of members of the Board shall be such as may be prescribed. (7A) There shall be paid to every member (not being a member representing the State Government) from the fund of the Board, travelling and daily allowances.*

For attending meetings of the Board at such rates as may be prescribed.

8. *The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject for the approval of the State Government, be regulated by the Board itself."*

7. On 3rd May, 2017 when the matter came up for hearing the following statement was made by the learned AGP.

"That the Dy. Secretary of State of Maharashtra, Industries, Energy and Labour Department, Mantralaya, Mumbai by letter dated 15th April, 2017 informs the AGP that the State is initiating steps for formation of the Board to be constituted under SEction 6(4) of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 for the grocery market and shops board. This exercise is likely to take some time."

8. In the order dated 3rd May, 2017 a letter dated 15th April,

2017 was referred in which one month's time was sought by the State for constitution of the Board. However, we find that till date the Board has not been constituted. Thus there appears to be inordinate delay on the part of the State in constituting the Board. The constitution of the Board is a requirement of Section 6 of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969.

9. In the circumstances, taking note of the earlier stand taken by the State seeking only one month's time for constitution of the Board, we are inclined to dispose of this Petition by directing the Respondent-State to constitute the Board as expeditiously as possible but in any case not later than three months from today.

10. All other contentions in regard to the other reliefs claimed in the Petition are kept open.

11. With the aforesaid direction, the Petition is disposed of.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)