

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11801 OF 2016

Rashtravadi Suraksha Rakshak
& General Kamgar Union

... Petitioner

Vs.

The Security Guards Board for
Greater Mumbai & Thane District
& Another

... Respondents

.....

Mr. I. S. Thakur a/w Mr. C.S. Patil i/b. Global Juris Consult for the
Petitioner.

Mr. Meelan Topkar for Respondent No.1.

Ms. Sushma Bhende, AGP for Respondent No.2.

Mr. Raveekumar Patankar, Secretary of Security Guard Board,
present.

.....

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

DATE : JANUARY 20, 2017.

P.C. :

1. By this Petition under Article 226 of the Constitution of India, the only request that is made by the petitioners is that the Statutory Board should take a decision and complete the process of registration of the Security Guards. The prayer clauses (a) and (b) of the Writ Petition read as under:

"(a) This Hon'ble Court may be pleased to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction, directing the Respondents to complete the process of registration of the Security Guards, by taking necessary steps including issuing Letters for verifying Characters and Medical Test Report, in pursuance to their selection as per the Govt. Resolution dated 17/10/2013, forthwith.

(b) This Hon'ble Court may be pleased to issue a Writ of Mandamus and/or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction, directing the Respondents to complete the process of registration of the Security Guards, as per their selection in the selection list dated 11/08/2014, 20/08/2014 and 28/08/2014 forwarded by the Board to the Government of Maharashtra by taking necessary steps including issuing Letters for verifying Characters and Medical Test Report as per the Govt. Resolution dated 17/10/2013, forthwith."

2. An affidavit was filed earlier by the Board in which it sets out the complete procedure of registration including making a reference to the State Government Resolutions containing

directions to the Board. A reference is also made to the legal proceedings which were instituted to challenge the provisions of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. However, at the end of all this, the Board says that even with regard to the pending applications, they had initiated the Registration process. However, the Board finds it difficult to obtain sanction to the Registration of eligible candidates and to continue the Registration process from the State Government. The reason for this is that there was a complaint filed with the State Government alleging corruption during the process of registration. The State Government directed the Anti Corruption Bureau to investigate this complaint. The Board has received a letter from this Bureau seeking some information about the registration process initiated by the Board and the same was provided. Despite this, the State Government was not allowing the Board to go ahead. Even in the instant case, the preliminary steps have been taken. The Board intends to complete the process, and without, in any manner, interfering with the State's Superior power to investigate the Board's affairs as also to cause an investigation to be done into a complaint pending with the Anti Corruption Bureau. The Board always maintained that it is bound to follow all the Rules and Regulations with regard to such registration. It will cooperate with the State Government in every endeavor undertaken by it, particularly, with regard to the registration.

3. It is in these circumstances that we fail to understand as to why the State Government is insisting on not permitting the Board to complete the registration process. We called for an affidavit, as also detailed instructions in that regard. That is how an affidavit-in-reply filed on behalf of the respondents by the Principal Secretary, Department of Industries, Energy and Labour, Mantralaya, Mumbai, is placed on record. The State has filed this affidavit to clarify that directions were issued by this Court in Writ Petition No. 5977 of 2014 and pursuant to which an application was made on 6th January 2016 to the Government requesting it not to register the Security Guards as there is a challenge to the selection procedure.

4. The Anti Corruption Bureau has submitted an interim report on 20th December 2006 and the matter is yet to be investigated completely. Therefore, the State has sought further time so as to make a comprehensive report and submission to this Court.

5. The stand was, as long as the inquiry and investigation by the Anti corruption Bureau is pending, the State Government should not be compelled to take any decision where-under, the Board is allowed to register the Security Guards.

6. In the morning session, we called upon Ms. Bhende to take instructions as to how this attitude of the State serves a larger

public interest. Registration of the Security Guards ensures that their conditions of service are protected. The Act envisages making better provisions for their terms and conditions of employment and welfare through establishment of a Board. Such being the aim and object sought to be achieved, no fruitful purpose would be served if the Board is prevented from carrying out its statutory duty and function. Since the Court expressed its displeasure, particularly, with regard to this attitude of the State, Ms. Bhende agreed to take instructions.

7. After taking instructions, she reverted back to the Court and has made a statement that in the event the Board duly and fully complies with the two directives of the Government, particularly, the one dated 2nd March 2009, a copy of which is at Exhibit "A" to the affidavit-in-reply filed by the Board and the subsequent/revised direction and guideline contained in the order dated 17th October 2013, a copy of which is annexed at Exhibit "B" to the Board's affidavit, then, so long as the Board complies with these directions and guidelines and follows them while registering the Security Guards and without, in any manner, disturbing and interfering with the ongoing investigation by the Anti Corruption Bureau, if the registration of Security Guards is undertaken by the Board, the State Government would have no objection to the process being initiated and completed by the Board.

8. In the light of these statements made by Ms. Bhende, on instructions, each of which is accepted as an undertaking to this Court, we called upon Mr. Topkar appearing for respondent No.1 as to how the Board would respond to this stand of the State Government. After taking instructions from the Secretary of the Board, who is present in Court, Mr. Topkar equally informs this Court that the Board would abide by the orders and directions of the State Government, and particularly the one referred to above, and will not deviate therefrom while considering and scrutinizing the application for registration and pending with it. The Board will make every endeavor to obtain relevant information from the applicant. The Board will strictly scrutinize the application by taking into consideration the antecedents of the candidate. The Board will verify the authenticity and genuineness of the information in the application and, in the event, any statement is false, misleading or if any relevant document or information is suppressed from the Board, it will not hesitate to even recall a registration already granted. It will then take decision to cancel that registration. We accept these statements made by Mr. Topkar as undertakings to this Court.

9. In view of the above undertakings and given to this Court, we do not see why scrutiny and verification of the pending applications should be withheld or not undertaken. We direct the Board to consider the applications of the Petitioner's members and pass requisite orders thereon as expeditiously as possible and in

any event, within a period of two months from today. After the above, necessary registration certificates be issued within this period. However, it is clarified that we have not expressed any opinion on the rival contentions. Beyond accepting the undertakings and ensuring that the registration process commences and is carried out smoothly, we have not expressed any opinion so far as the merits of the application and the procedure, so also the power of the State Government to direct the Board in the Scheme of the Act concerned. All contentions in that regard are kept open.

10. The Writ Petition is disposed of in the above terms.

(B. P. COLABAWALLA, J.)

(S. C. DHARMADHIKARI, J.)