

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13514 OF 2017

THE SARPANCH GRAM PANCHAYAT KAUTHA AND ANOTHER
VERSUS
ASHOK MADHAV VAIRAGAR

...

Advocate for the Petitioners : Shri Shelke Shivaji T..
Advocate for the Respondent : Shri Barde Parag Vijay.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 30th July, 2018

Per Court:

1 The Petitioners are aggrieved by the order dated 18.08.2017 passed by the Minimum Wages Controlling Authority- cum- Assistant Commissioner of Labour, Ahmednagar in Minimum Wages Complaint No.12/2014.

2 This Court (Coram : V.K.Jadhav, J.) had recorded the submissions of the learned Advocate for the Petitioners while issuing notices on 21.11.2017 as under :-

" *Heard.*

2 *The learned counsel for Petitioners submits that the Respondent was not the regular employee nor appointed on the sanctioned post. The duration of the work allotted to the Respondent was hardly for half an hour. However, the learned Assistant Commissioner of Labour, Ahmednagar in Minimum Wage Complainant No.12 of 2014 has passed the impugned*

order without considering the Government Resolution dated 21st January, 2000 and the notification dated 25th April, 2007 issued in respect of revising of Minimum Rates of Wages payable to the employees employed in the employment in "Village Panchayat Local Authority Industry" in the State of Maharashtra. The learned counsel submits that the population of the above village is less than 3000 and as per the said notification, till the removal of the Respondent, he was paid the wages as per the aforesaid notification. However, the learned Commissioner has directed to pay the huge amount of Rs.4,62,443/- to the Respondent without any basis.

3 *In view of the above, issue notice to the Respondent, returnable on 9th January, 2018.*

4 *Meanwhile, the effect of the impugned order is hereby stayed on condition to deposit Rs.25,000/- before this Court till the next date of hearing."*

3 The learned Advocate for the Respondent/ employee has strenuously defended the impugned order and prayed for the dismissal of this petition with costs.

4 I, however, find that the Petitioner/ Gram Panchayat, though was given sufficient opportunities in the proceedings before the lower authority, failed to cross examine the Respondent/ worker and also did not lead any oral and documentary evidence. As such, the impugned order appears to have been passed on the basis of the claims put forth by the Respondent. Though I am of the view that the Petitioner/ Gram Panchayat could be granted one opportunity so as to ensure that an order is passed on the merits of the rival claims, costs will have to be imposed on the

Petitioner so as to reduce the rigours of the litigation suffered by the Respondent.

5 The learned Advocate for the Petitioner submits that it is a public body, a small Gram Panchayat and has severe financial crunch. He prays that minimum costs be imposed.

6 The learned Advocate for the Respondent submits that he was deprived of minimum wages and was surviving on such wages of Rs.500/- per month which would lead the Respondent to starvation.

7 In view of the above, this Writ Petition is partly allowed. The impugned order dated 18.08.2017 is quashed and set aside and Minimum Wages Application No.12/2014 is remitted to the concerned Minimum Wages Controlling Authority under the Minimum Wages Act on the following conditions :-

- (a) The litigating sides shall appear before the concerned Authority on 20.08.2018 at 11:00 am. Formal notices need not be issued.
- (b) The Respondent shall remain present on the said date so as to enable the Petitioner to cross examine him in view of the affidavit filed in lieu of examination-in-chief.
- (c) The Petitioner shall refrain from seeking an adjournment.
- (d) The Petitioner would be at liberty to lead evidence after the Respondent closes his oral evidence.

- (e) The Competent Authority shall decide the said proceedings as expeditiously as possible and in any case on or before 20.02.2019.
- (f) The Respondent is at liberty to withdraw an amount of Rs.15,000/- (Rupees Fifteen Thousand) from the total amount deposited by the Petitioner in this Court, subject to usual conditions of identification.
- (g) This amount of Rs.15,000/- granted to the Respondent is towards costs and shall not be set off against his legal dues in the event he succeeds before the authority below.
- (h) The remaining amount of Rs.10,000/- (Rupees Ten Thousand) along with accrued interest shall be withdrawn by the Petitioner/ Gram Panchayat through it's authorized officer subject to proper identification.