

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

WRIT PETITION NO.9482 OF 2018

M/s. Idemitsu Lube India Pvt. Ltd. : Petitioner.
Versus
Grocery Markets & Shops Board
and ors. : Respondents.

**Mr. K M Naik, Senior Advocate a/w Mr. S P Salkar and Mr. Hemant Telkar
for the Petitioner.**

Mr. B S Mahamulkar a/w Mr. S S Shetye for the Respondent Nos.1 to 3.

Mr. Y B Lengare for the Respondent No.4.

**Mr. Sandeep Bajaj a/w Mr. Anuj Jhaveri and Ms. Dhvani Krishnan I/by
PSL and Solicitors for the Respondent No.5.**

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.**
DATE : 01st NOVEMBER 2018

P.C.

1 The above Writ Petition has been filed challenging the order dated 03/08/2018 passed by the Respondent No.1 i.e. the Grocery Markets & Shops Board. By the said order the Respondent No.1 has held that the 26 workers, in respect of whom the dispute is as regards their registration, are carrying out Mathadi kind of work in the Petitioner-Company and therefore the Petitioner should pay the salary and levy in respect of the said workers. The said finding has been arrived at by the Respondent No.1 Board after carrying out the exercise of inspecting the premises of the Petitioner-Company on as many as two occasions i.e. on 05/08/2014 and 31/10/2014 in the presence of the representative of the Petitioner, which fact has been mentioned in the

impugned order.

2 It is an undisputed position that the Petitioner is a registered employer with the Respondent No.1 Board. It is therefore the obligation of the Petitioner that in respect of any work who is of the Mathadi kind, the Petitioner would have to make a requisition for Mathadi workers to be supplied from the Respondent No.1 Board or the workers engaged by it would have to be registered with the Respondent No.1 Board by the Petitioner. It is the case of the Petitioner that the said 26 workers were engaged through a contractor to carry out house keeping work. The finding of the Respondent No.1 Board as regards the Mathadi kind of work being available with the Petitioner is sought to be disputed by the learned Senior Counsel for the Petitioner by contending that having regard to the kind of the manufacturing activities which go on in the Petitioner-factory there is no work of the Mathadi kind which can be provided to the said 26 workers in respect of which there is a dispute. The impugned order refers to the kind of work which is available with the Petitioner namely shifting of filled drums, empty drums to be put on the conveyor belt, to handle the box/bucket on the conveyor belt and incidental works.

3 It is required to be noted that initially a complaint was filed on behalf of the workers who were engaged through contractor by one Anandi

Mathadi Transport & General Kamgar Union in which complaint a protective order restraining the Petitioner and the contractor from terminating the services of the workers was passed. However, the said protective order came to an end, it appears, by efflux of time.

4 It appears that in view of the agitation of the said 26 workers the Petitioner had filed a Civil Suit in the Court of Civil Judge, Junior Division at Khalapur, District Raigad. A perusal of the averments made in the said Civil Suit indicate that the Petitioner had accepted the fact that the Petitioner had engaged the workers through the contractor for carrying out the work of loading and unloading and housekeeping. The said statement which has been made in the said Civil Suit which has been filed in the year 2018, belies the case of the Petitioner that there is no Mathadi kind of work available with the Petitioner. The order passed by the Respondent No.1 Board is as indicated above passed on the material which has come before the Respondent No.1 Board on account of the inspections which were carried out on the dates which have been mentioned in the earlier part of this order. The record also discloses that the issue as regards the registration of the 26 workers was tried to be resolved by holding a number of meetings from the year 2005 to 2018 but to no avail. The act being a beneficial piece of legislation to protect the unprotected workers interference, if any, would have to be slow. It is impossible to believe that the Petitioner who is involved in manufacturing

activities does not have any Mathadi kind of work and the only work available is of house keeping.

5 In that view of the matter no case for exercise of our writ jurisdiction is made out. The above Writ Petition is accordingly dismissed.

6 The learned Senior Counsel Mr. K M Naik appearing for the Petitioner seeks stay of the instant order. In the facts and circumstances of the present case, the said prayer is refused.

[NITIN W. SAMBRE, J]

[R. M. SAVANT, J]