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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13724 OF 2017

Maharashtra Suraksha Rakshak
Kamgar Union (INTUC)

..Petitioner.

V/s.

The State of Maharashtra & Ors.

..Respondents.

Mr.Avinash R.Belge for the petitioner.

Mr.Sandeep L. Babar AGP for respondent No.1 – State.

Ms.Pallavi Divakar with Mr.Salil Dabke i/b. M/s.Divekar & Co. for
respondent No.2.

Mr.Kiran Bapat with Mr.Ashish Pimple i/b. M/s. Rajeev Talshilkar
for respondent No.4 – intervenor.

Mr.Prasad Dani, Senior Advocate with Mr.Kunal Vaishnav with
Mr.Suraj Iyer with Ms.Debashree Mandpe i/b. Ganesh & Co. for
respondent No.3.

***CORAM: SHANTANU KEMKAR AND
NITIN W.SAMBRE, JJ.***

DATE : JUNE 19, 2018

PC.:-

The petitioner by filing this petition under 226 of the
Constitution of India is seeking the following reliefs :-

“a) That this Hon'ble Court may be pleased to exercise powers

vested in it under Article 226 of the Constitution of India and issue a writ of mandamus and/or any other appropriate writ or direction in the nature of writ directing respondent No.3 to get itself registered with Security Guards Board, under the Act and the scheme forthwith for their Unit at Nashik and continue to employ the present Security Guards listed at Exhibit 'A' annexed to this petition in their establishment;

- b) That this Hon'ble Court be pleased to issue appropriate order or direction, directing respondent No.2 to register the Security Guards listed at Exhibit 'A' after completing the selection process as per G.R. 17/10/2013 and allot them to establishment of respondent No.3 as far as possible;*
- (c) This Hon'ble Court may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing respondent No.2 to initiate penal action against respondent No.3 as per the provisions of clause 42 of the Security Guards Scheme, 2002.”*

2. As regards prayer clause (b) is concerned, it is not in

dispute that the selection process for registration of the security guards listed at Exhibit 'A' is in process. We direct respondent No.2 to complete the process as expeditiously as possible.

3. As regards as prayer clauses (a) and (c) are concerned, it is the case of the petitioner that respondent No.3 has not got itself registered with the second respondent and has violated the provisions of the Maharashtra Private Security (Regulation of Employment and Welfare) Act, 1981 and the schemes framed thereunder. The learned counsel appearing for the third respondent has however disputed and submits that it has rightly employed Security Guards through respondent No.4 – M/s. Unique Delta Force and now by respondent No.5.

4. It is not in dispute that the second respondent has issued a letter dated September 26, 2017 to ensure that there is no illegality or violation committed by the third respondent in appointing the Security Guards.

5. The learned counsel for respondent No.2 has admitted that after the said notice was issued, no further steps have been taken on it as on date.

6. In the circumstances, we dispose of the petition by directing respondent No.2 to take appropriate action against respondent No.3, if after the inquiry it is found that respondent No.3 has violated the provisions of the Act and Rules. Let the entire exercise as aforesaid, be completed within a period of three months.

7. The petitioner is also permitted to participate in the said proceedings and to produce all necessary documents in respect of his contentions.

8. With the aforesaid directions, the petition is disposed of.

9. All contentions of the petitioner and the respondent No.3 are kept open.

(NITIN W.SAMBRE, J.)

(SHANTANU KEMKAR, J.)