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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1049 OF 2018

M/s.Indian Oil Corporation ...Petitioner
vs.
The State of Maharashtra
and others ...Respondents

Mr.Anilkumar K.P. for the Petitioner
Mr.G.W.Mattos, AGP for the respondent Nos.1 and 2.
Mr.S.P.Shinde for respondent No.3
Mr.L.S.Deshmukh for respondent No.5

CORAM : A.S.OKA, &
SANDEEP K. SHINDE,JJ.
DATE : NOVEMBER 19, 2018

P.C.:

1 Heard the learned counsel for the petitioner.
Rule. The learned AGP waives services for the
respondent Nos.1 and 2. The learned counsel for the
respondent No.3 as well as respondent No.5
respectively waive service. Notice to the respondent
No.4 is not necessary. Forthwith taken up for final
disposal.

2 The respondent No.3-Railway Goods Clearing and Forwarding Establishments Labour Board has been constituted under the provisions of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment & Welfare) Act, 1969 (for short "the said Act of 1969"). By the impugned decision/order dated 13th April 2017 communicated on 15th May 2017

issued in exercise of power under section 13 of the said Act of 1969, the respondent No.3 directed the petitioner to pay an amount of Rs.18,91,241/- plus Rs.94,562/- being delayed payment charges totally amounting to Rs.19,85,803/-.

3 The learned counsel for the petitioner firstly submitted that the impugned decision has been taken without verification of the record and only on the ground that the petitioner did not remain present, notwithstanding service of notice. There is a record available to show that the amount payable to the respondent No.3 is already paid. He submitted that no reasons have been recorded in the impugned decision for coming to the conclusion that the petitioner is liable to pay the said amount. The learned counsel for the respondent Nos.3 and 5 supported the said decision by pointing out the annexures to the affidavit in reply of Shri Vijay N. Chaudhari, Assistant Commissioner for Labour and the Chairman of the respondent No.3. It is pointed out that number of notices issued from time to time for calling upon the representative of the petitioner to remain present for hearing and notwithstanding the service of notices, the petitioner never appeared before the respondent No.3. It is, therefore, submitted that no interference is called for. The learned counsel for the petitioner submitted that it appears that intimations of the dates fixed for hearing were received by one particular Officer who has not unfortunately responded. Without prejudice

to the contentions raised in the petition, he submits that if an order of remand is passed, the petitioner is willing to deposit entire amount demanded with the respondent No.3 subject to final outcome of the proceedings before the respondent No.3 and subject to right of the petitioner to challenge the fresh decision which may be taken by the respondent No.3.

4 The petitioner is a public sector undertaking. Moreover, there is some merit in the submission made by the learned counsel for the petitioner that reasons have not been assigned in the impugned order and the respondent No.3 proceeded only on the basis of the default on the part of the petitioner to appear. As the petitioner is willing to deposit the entire amount demanded by the respondent No.3, there will not any prejudice to anyone if an order of remand is passed. The learned counsel for the petitioner submits that the amount which may be deposited by the petitioner be ordered to be retained with the respondent No.3 and should not be parted with.

5 Accordingly, we pass the following order:

(I) The impugned decision/order dated 13th April 2017 passed by the respondent No.3 is hereby quashed and set aside subject to condition of the petitioner depositing entire amount demanded under the said decision with the respondent No.3 within a period of

three weeks from the date on which this order is uploaded. On the failure of the petitioner to deposit the entire amount of Rs.19,85,803/- within stipulated period, the order dated 13th April 2017 shall stand confirmed;

(II) In the event of the deposit of the aforesaid amount within stipulated period, we direct the respondent No.3 to give an opportunity of being heard to the petitioner and all other concerned parties and thereafter to pass a fresh order;

(III) We direct the petitioner and the respondent No.5 to appear in the office of the respondent No.3 on 14th December 2018 at 11.00 a.m for fixing the schedule of hearing;

(IV) We make it clear that the respondent No.3 shall be under no obligation to issue any further notice of the date fixed before it;

(V) We restrain the respondent No.3 from disbursing the amount deposited by the petitioner till the date of communication of the fresh decision taken by the respondent No.3 to the petitioner. If the said order be adverse to the petitioner, effect shall not be given to it for a period of three weeks from the date of the said order.

(VI) We direct the respondent No.3 to make a fresh adjudication and decide the same as expeditiously as possible and in any event within a period of two months from the date fixed for appearance;

(VII) As and when the amount is deposited by the petitioner, the same shall be invested by the respondent No.3 in fixed deposit with any

nationalised bank initially for a minimum period of three months;

(VIII) We make it clear that we have made no adjudication on the merits of the demand made by the respondent No.3 and all contentions on merits are left open;

(IX) Rule is partly made absolute on above terms with no order as to costs.

(SANDEEP K. SHINDE,J.)

(A.S.OKA,J.)