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

WRIT PETITION NO. 9822 OF 2019

M/s. Aegis Logistics Ltd. ..Petitioner

vs.

Security Guard Board for Brihan Mumbai
& Thane District & ors. ..Respondents

.....

Mr. K.S. Bapat a/w. Jayesh Desai i/b. M/s. Desai & Desai
Ass. for petitioner.

Mr. Milan Topkar for respondent No.1.

Ms. Sonali Humane for respondent No.2.

Mr. D.A. Nalawade for respondent No.3.

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**CORAM : RANJIT MORE &
M.S.KARNIK, JJ.**

DATE : 6th NOVEMBER, 2019

P.C.:-

Heard Mr. Bapat, learned counsel for petitioner,
Mr. Topkar, learned counsel for respondent No.1, Ms.
Humane, learned counsel for respondent No.2 and
Mr.Nalawade, learned counsel for respondent No.3.

2. By this Petition the petitioner is challenging the
order of respondent No.1 dated 16/8/2018, reminder notice
dated 6/9/2018 as well as order dated 8/7/2019.

3. By first order dated 16/8/2018, respondent No.1 directed the petitioner to remit an amount of Rs.1,97,162.69 towards the payment of wages of 13 security guards for the month of July, 2018. By second order dated 8/7/2019, respondent No.1 directed the petitioner to remit an amount of Rs.10,45,368.20 towards payment of wages and levy for the period from July 2018 to October, 2018.

4. The above impugned orders are passed on the basis of the report of the Inspector, Security Guards Board for Brihan Mumbai and Thane District. The copy of the report is annexed as Exhibit "E" at page 34. The report of the Inspector disclosed that the petitioner though being a registered employer, has engaged unregistered security guards through respondent No.3 and has violated the provisions of the Clause 25 of the Scheme. On the basis of this report, show cause notice was given to the petitioner. The petitioner has filed reply to the show cause notice on 6th October, 2018. Copy of which is annexed as Exhibit "T" at page 89. In reply the petitioner contended that their

requirement was for 33 security guards only and accordingly they have continued these security guards. It is specific contention of the petitioner that the persons appointed from the agency of respondent No.3 was not doing services of the security guards and the scope of their employment was different. The petitioner also requested respondent No.1 to grant fair opportunity and consider the material evidence on record.

5. It is the specific case of the petitioner that respondent No.1 - Board vide the impugned orders directed the petitioner to remit the amount mentioned in the said orders. Respondent No.1 has not taken into consideration their reply.

6. Mr. Bapat, learned counsel for the petitioner, in this regard relied upon the provisions of Section 14 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (hereinafter referred to as "the said Act" for short) and submitted that the inquiry contemplated under Section 14 is a judicial proceeding within a meaning of Section 193 and 228 and

for the purpose of Section 196 of the Indian Penal Code and without giving fair opportunity to the petitioner impugned orders are passed.

7. In the light of the rival submissions, we have gone through the impugned orders. By the impugned orders respondent No. 1 directed the petitioner to remit the amounts Rs.1,97,162.69 and Rs.10,45,368.20 respectively. The impugned orders exfacie does not show consideration of the petitioner's contention as reflected in their reply dated 6/10/2018.

8. In the above circumstances, we are of the opinion that the impugned orders cannot stand scrutiny of the provisions of Section 14 of the said Act. The same cannot be sustained.

9. We accordingly dispose of the Petition by passing following order.

ORDER

(i) The impugned orders dated 16/8/2018 and 8/7/2019 as well as reminder notice dated 6/9/2018 are quashed and set aside.

(ii) The matter is remitted back to respondent No.1 - Board for considering the matter afresh on its own merits and in accordance with law.

(iii) Respondent No.1 - Board is directed to take fresh decision after giving opportunity of hearing to the petitioner.

(M.S.KARNIK, J.)

(RANJIT MORE, J.)

Diksha
Rane

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