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

WRIT PETITION NO. 10097 OF 2013

Maharashtra Suraksha Rakshak Kamgar Union ... Petitioner

V/s.

Nashik District Security Guards Board and Ors. ... Respondents

Ms. Ranjana Todankar for the Petitioner

Ms. Lata Desai I/b. Pallavi Divekar for Respondent No.1

Mr. Karan Thorat, AGP for the State – Respondent No.2

***CORAM : NITIN JAMDAR &
M.S. KARNIK, JJ.***

DATE : 5 FEBRUARY 2020.

P.C. :-

Following prayers have been sought in this Writ
Petition :-

“(a) 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 the Respondent No.1 to register the security guards listed at Exhibit ‘A’ to the Petition and to allot them to the establishments of Respondent No.2.

(b) 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 the Respondent No.2 to get itself register with the Board.

(c) The 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 the Respondent No.1 to initiate penal action against the Respondent No.2 as per the provisions of clause 42 of the Security Guards Scheme, 2002.

(d) 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 the Respondent Nos.2 and 3 to pay the monthly wages of the Security Guards listed at Exhibit 'A' to the Petition due to them from the month of April, 2013 jointly or severally.

(e) Pending the hearing and final disposal of this Petition the Hon'ble Court may be pleased to direct the Respondent No.1 to register the security guards listed at Exhibit 'A' to the Petition and to allot them to the Respondent No.2.

(f) Pending the hearing and final disposal of this Petition this Hon'ble Court may be pleased to restrain the Respondent Nos. 2 and 3 from terminating the services of the security guards listed at Exhibit 'A' to the Petition and to pay their monthly wages regularly.

(g) For ad-interim and interim reliefs in terms of prayer clauses (e) and (f)."

2. As far as prayer clause (a) is concerned, the learned Counsel for the Petitioner states that the Security Guards listed at

Exhibit 'A' have been registered in the Board.

3. This prayer does not survive. As far as the other prayers are concerned, they are pressed on the premise that the Respondent No.2 – Social Welfare Department of the State of Maharashtra must register itself under the provisions of Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. The registration is mandated in respect of Principal Employer, security guards deployed in a factory or establishment by the board has been defined as an establishment under Clause (8) of Section 2 of the Maharashtra Shops and Establishment Act, 1948.

4. Considering the difficulty faced in proceeding further with these prayers to treat the Social Welfare Department as establishment under the Act 1948, the learned Counsel for the Petitioner states that independent of the provisions of the Act, the State Government has passed Government Resolutions wherein they have decided to engage private security guards whenever necessary through the Board. However, there is a prayers made in this Petition to direct the Respondent to enforce the Resolution. Such challenge will be different, for which a separate Petition will have to be filed.

5. Thus, we dispose of this Petition giving liberty to the Petitioner to raise their challenge based on the Resolutions of the State Government regarding employment of the private security

guards. We make it clear that we have not commented on the merits of such contention.

6. The Writ Petition is accordingly disposed of with the said liberty.

M.S. KARNIK, J.

NITIN JAMDAR, J.

Jyoti
P.
Pawar

Digitally signed
by Jyoti P.
Pawar
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