

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2230 OF 2020

I.G. Petrochemicals Ltd.	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

Mr.Ashwin Shete a/w Mr.Abhay Dhadiwal & Mr.Mehul Hartalkar i/b
M/s. Jayakar & Partners, for Petitioner.
Ms.Rupali Shinde, AGP for Respondents No. 1, 3, 4.
Mr.B.S.Mahamulkar, for Respondent No.2.

CORAM : NITIN JAMDAR &
M. S. KARNIK, JJ.
DATE : 2nd MARCH, 2020

P. C. :

. By this Petition, the Petitioner has challenged the order dated 24 September 2018 passed by Respondent No.2 – Office of Specified Authority of Grocery Markets and Shops Board and notice dated 8 May 2019 to implement the order.

2. The Petitioner is a Public Limited Company. Respondent No.2 is an Authority appointed under the provisions of Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969. The Petitioner through

Respondent No.5 – M/s.K.D.Patil and Company had employed certain mathadi workers through Toli No. 6310 and including workers named Shri Gajanan Humane, Shri Rahul Gondhali and Shri Vaibhav Bhoir. According to them, even though they were registered and allowed to work with Toli No. 6310 with the Petitioner, they were not given work and prohibited from doing so. They made a complaint to the Board. In the application/complaint to the Board, these workers gave their registration numbers and asserted that they were allotted to work with the Petitioner. The Respondents filed a reply and disputed that these mathadi workers working with the Petitioner. The Respondent – Board has negated the contention of the Petitioner. Before the Authority, one of the Respondents led evidence. He was cross examined and Board partly allowed the application and partly granted relief to the workers and directed the Petitioner to pay the amount due from 1 June 2014 to 30 November 2014 to the tune of Rs. 1,30,478/- to the workers.

3. Learned Counsel for the Respondent - Board points out that this amount has now been recovered / deposited and also disbursed to the concerned workers who were not made parties to the Petition.

4. It is the contention of the learned Counsel for the Petitioner that it is not enough on the part of the workers and their union to only place on record registration number but further aspect must be proved by them such as they had worked and registration qua the Toli.

Learned Counsel, relying on the Resolution dated 21 January 2009 submits that there is a methodology prescribed under this Resolution and Authority could have ascertained whether the same has been followed.

5. The Act has been enacted for achieving a social purpose i.e. to organize the unorganized workers who by nature of their work and status are handicapped in asserting their rights. The proceedings under the Act will have to be viewed with that social objective in mind. One worker on the part of the Union has examined himself and offered himself to be cross examined. Examining oneself and subjecting oneself to cross examination has significance as the cross examination is meant to elicit the truth. The Petitioner has assailed the factual finding of the Board in writ jurisdiction. The Petitioner has not offered itself for examination and has not led evidence and permitted itself to be cross examined. The Petitioner has only relied upon the cross examination of the workers. In the adjudication under the enactment such as the present one, the employer cannot not take a passive stand and rely only on the cross examination of the workers. The proceedings are not a civil suit and the Petitioner having not offered to give evidence cannot criticize the factual findings.

6. In these circumstances, at the behest of the Petitioner who has not offered evidence as to the factual assertions, we are not inclined to interfere with the findings of the Authority. Writ Petition is

accordingly rejected.

7. We make it clear that we have not interfered with the impugned order in respect of the above period in the light of the above conclusion.

[M. S. KARNIK, J.]

[NITIN JAMDAR, J.]

Urmila
P.
Ingle

Digitally signed
by Urmila P.
Ingle
Date:
2020.03.13
10:18:25
+0530