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

WRIT PETITION NO. 3164 OF 2021

AMBIKA METAL A PARTNERSHIP FIRM ..PETITIONER

VS.

METAL AND PAPER MARKET AND SHOPS
MATHADI LABOUR BOARD, GREATER
MUMBAI & ORS.

..RESPONDENTS

Mr. Avinash Jalisatgi i/b. Vaibhav Jagdale for the petitioner.

Mr. B.S. Mahamulkar a/w. Rahul Oak for the respondent Nos. 1
and 2.

Mr. L.S. Deshmukh for respondent No.3.

CORAM : M.S.KARNIK, J.

**DATE : JULY 22, 2021
(VIA V.C.)**

P.C.:-

Heard learned counsel for the parties.

2. It is the contention of learned counsel for the petitioner Shri Jalisatgi, that the Specified Authority under the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (hereinafter referred to as 'the said Act') which has passed an impugned order has not followed the procedure laid down under Section 13 of the said Act. It is his further contention that though it is the petitioner - employer's case that what is applicable to the petitioner

establishment is the Metal (Excluding Iron & Steel) and Paper Unprotected Workers (Regulation of Employment & Welfare) Scheme, 1973, the Specified Authority without recording any reasons whatsoever, simply accepted the case of the respondent – workman that the petitioners are liable to pay levy and wages in respect of an employment under the head ‘Aluminum Section’. There is no finding recorded by the Specified Authority as to under what head the wages are to be levied while directing the employer to pay the levy and wages.

3. Learned counsel for the respondents argued in support of the impugned order.

4. I find that, on the contention raised by the petitioner as to under what head the levy is to be made, no finding has been recorded, though a specific stand is taken by the petitioner that they are governed by the 1973 Scheme.

5. Learned counsel for the petitioner fairly submitted that the petitioner – employer will deposit the amount of Rs.7,90,738.63 as determined by the Specified Authority with the respondent No.1 – Board without prejudice to the rights and contentions of either of the parties. Statement is accepted.

6. In this view of the matter, the impugned order is set aside. The matter is remitted to the Specified Authority for passing a fresh order after considering the objections of the parties and hearing them afresh. Let the fresh order be passed within a period of six weeks from 26/7/2021.

7. The parties to appear before the Specified Authority on 26/7/2021, at 11.00 a.m. along with the copy of this order as to enable the Specified Authority to fix further schedule.

8. The parties undertake to co-operate in the expeditious disposal of the proceedings.

9. Till the decision of the application, the amounts deposited by the petitioner not to be disbursed by the respondent No.1 - Board.

10. All contentions of the parties are kept open.

11. The impugned order is set aside. I have not expressed any opinion on merits of any of the contentions.

12. The parties are at liberty to file further pleadings, documents or evidence in support of their contentions in terms of Section 13 of the said Act.

13. The Writ Petition is disposed of.

(M.S. KARNIK, J.)

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