

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**908 CONT. PETITION NO.559 OF 2022
IN
WP/5606/2020**

BADALBEG KAMLBEG MOGAL
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

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Advocate for Petitioner : Mr. P. A. Kulkarni
AGP for Respondent Nos.1 to 4-State : Mr. A. R. Kale
Advocate for Respondent Nos.5 & 6 (in CP 567/2022, 560/2022, 633/2022,
563/2022): Mr. S. K. Doke

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**WITH CP/560/2022 IN WP/5442/2020
WITH CP/561/2022 IN WP/5608/2020
WITH CP/562/2022 IN WP/5607/2020
WITH CP/564/2022 IN WP/5611/2020
WITH CP/632/2022 IN WP/5932/2020
WITH CP/633/2022 IN WP/5438/2020
WITH CP/565/2022 IN WP/4493/2021
WITH CP/568/2022 IN WP/5610/2020
WITH CP/569/2022 IN WP/5604/2020
WITH CP/570/2022 IN WP/5605/2020
WITH CP/571/2022 IN WP/5612/2020
WITH CP/572/2022 IN WP/5601/2020
WITH CP/566/2022 IN WP/6235/2020
WITH CP/567/2022 IN WP/5014/2020
WITH CP/563/2022 IN WP/5015/2020**

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**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 07th October, 2022

PER COURT :

1. On 14/01/2021, this Court passed an order in a group of matters and finally set out it's direction below paragraph No.5 as under :-

"5. In view of the consistent view taken at the Principal Seat and at Nagpur Bench, we follow the same course and pass following order:

O R D E R

(a) The petitioners be paid wages at the minimum of the pay scale at the lowest grade, in the regular pay scale extended to the regular employees holding the same post with effect from the date of the petition.

(b) The respondent No.5 is directed to comply with this order within six months from today.

6. With the aforesaid observation and directions, writ petitions are disposed of. No costs.

2. It is, thus, apparent that the petitioners were held entitled for the minimum pay scale at the lowest grade in the regular pay scale extended to the regular employees holding the same post with effect from the dates of the petition.

3. By order dated 28/09/2022, we have directed Zilla Parishad to

consider the case and make a statement.

4. The learned AGP appearing on behalf of respondent Nos.1 to 4 who are State Authorities tenders a compilation of 32 pages. The same are collectively marked as 'X' for identification.

5. The learned AGP on the basis of the compilation submits that there are around 58 drivers with regard to the Osmanabad district. A specific contractor by name M/s Shri Sant Gadgebaba Maharaj had entered into a contract and had deployed these petitioners. The State Authorities in pursuance to the contract have been regularly making the payment to the contractor.

6. The learned Advocate for the petitioners submits that this entity was not given the contract in 2020-2021, but has been granted the contract in 2021-2022. Earlier the contract was given to ASHKOM Media India private Limited.

7. Considering the above, we find that there are several disputed issues raised before us in this contempt petition. Nevertheless, we are concerned with the order passed on 14/01/2021 wherein we

have held that the petitioners are entitled for the minimum pay scale at the lowest grade.

8. In our order dated 14/01/2021, we had specifically observed that these petitioners would be entitled for payment of minimum wages of the pay scale at the lowest grade. Respondent No.5 was directed to extend the said pay scale by complying with the order within six months. Apparently this order has not been complied with by the Zilla Parishad, who in turn claims that some amounts have been paid to the contractor and the contractor may not have disbursed the said amount.

9. Under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, it is the duty of the principal employer to depute a supervisor at the time of disbursement of wages to the contract labourers through the contractor. If the Zilla Parishad is unable to supervise such disbursement of wages, then, under the provision of the 1970 Act, the Zilla Parishad as a principal employer, will have to pay the wages to the contract labourers and recover the same from the contractor.

10. The learned Advocate for the Zilla Parishad submits that as a common order was passed on 14/01/2021, it did not get the opportunity to bring it to the notice of the Court that it had not issued any contract to any contractor and that the contract was granted by the Commissioner Health Services and Mission Director, National Health Mission Maharashtra, Mumbai.

11. The learned AGP draws our attention to page Nos.9 to 30 of 'X' to indicate that the amounts were paid to the contractor and the same have been paid to these petitioners through Bank NEFT. The payments have been made until August 2022. The learned Advocate for the petitioners denies such payments.

12. Considering the above, we do not find that there is a deliberate, intentional and willful disobedience of the order of this Court. Though an opportunity was granted, the petitioners have not added the contractor as a respondent in these proceedings. In the light of the above, we cannot entertain the contempt petitions on the basis of allegations, assumptions, presumptions and disputed aspects that an order appears to have been violated. In fact, the documents 'X' indicate disbursement of payments by NEFT.

13. Since the contractors were not arrayed as respondents in Writ Petition No.4817 of 2020 and all connected matters, this Court had no reason to record any directions against the contractors in its order dated 14/01/2021. Therefore, if the petitioners are deployed by the contractors and were entitled to payment of wages through the contractor, which may not have been paid for any particular period, the petitioners are at liberty to avail of the remedy under Section 33 C (2) of the Industrial Disputes Act, 1947.

14. In the event these petitioners approach the Labour Court with an application for recovery of amounts due from the employer (their contractor), the Labour Court would endeavour to decide the said applications, with a cooperation of the applicants, as expeditiously as possible and within a period of 18 months.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

gawade/-.