

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**CIVIL APPLICATION NO. 6128 OF 2023
IN
WRIT PETITION NO. 95 OF 2023**

Rashtriya Shramik Aghadi,
through its President,
Yeshwant s/o Anandrao Bhosale

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

.....
Mr. Anand Chavare h/f Mr. B. N. Patil – Advocate for the applicant
Mr. S. B. Yawalkar – AGP for respondent / State
.....

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATED : 13th JULY 2023

PER COURT : -

1. This application is filed by the Original Petitioner / Union in Writ Petition No. 95 of 2023, which has been disposed off by the order dated 06.06.2023.

2. Paragraph nos. 1 and 2 of the said order reads as under : -

- “1. The petitioner has raised multiple issues vide the points for consideration raised, which are disputed questions, as under :-
- i. Whether there is any violation of the provisions of The Contract Labour (Regulation and Abolition) Act, 1970.
 - ii. Whether the members of the petitioner Union have worked for 240 days in each calendar year.
 - iii. Whether there is a disparity in the payment of wages to the daily wagers as compared to the regular employees ?

- iv. Whether the work performed by the daily wagers, is at par with the work performed by the regular workers ?
 - v. Whether the contractors, respondents no.4,5 and 6, are sham and bogus contractors?
 - vi. Whether the principle of equal wages – equal work would apply to the members of the petitioner Union?
2. The issue as regards abolition of contract Labour system has been considered by the five Judges Bench by the Supreme Court in Steel Authority of India Ltd., and Ors. Etc. Vs. National Union Water Front Workers and ors. etc reported in 2001 III CLR 349 dated 31.8.2001. The issue as to whether the contractors are sham and bogus has also already been dealt with in the case of Vividh Kamgar Sabha vs Kalyani Steels Ltd. & Anr, reported in 2001 AIR SCW 170 and in the matter of Cipla Ltd. Vs. Maharashtra General Kamgar Union and others reported in AIR 2001 Supreme Court 1165. Law is well settled. If the Contract Labour system is to be abolished under section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, the Union will have to approach the competent authority. If the contractors are to be declared as sham and bogus, the Union has to raise an industrial dispute before the Assistant Commissioner/Conciliation Officer under the Industrial Disputes Act, 1970. Such questions which involve serious disputes and need oral and documentary evidence, cannot be entertained under the writ jurisdiction of this Court.

3. The learned advocate for the petitioner – Union submits that an Industrial Dispute has been raised and the same has been admitted in conciliation. However, the Union read a news item in the newspapers in which it was reported that the strength of contractual employees is likely to be reduced. Based on such news items, the petitioner has developed an apprehension that its members would be terminated.

4. Firstly, we have not entertained the writ petition on account of the disputed factors which are set out in paragraph nos. 1 and 2 of the order reproduced above. In addition thereto, the petitioner has

already raised an Industrial Dispute and the same has been admitted in conciliation. Failure report is yet to be tendered to the appropriate government. In such situation, when we had not entertained the writ petition in the first face. Therefore, this Court cannot exercise jurisdiction and grant reliefs to the petitioner – Union.

5. This Civil Application is, therefore, misconceived and the same is rejected.

[SANJAY A. DESHMUKH]
JUDGE

[RAVINDRA V. GHUGE]
JUDGE