

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO.9393 OF 2023

ALMAS VAHATUK VA HAMAL SAHAKARI SANSTHA MARYADIT
PARBHANI THROUGH IT'S CHAIRMAN
VERSUS
THE DISTRICT COLLECTOR PARBHANI AND OTHERS

Mr.Amit Yadkikar h/f Mr.A.D.Kulkarni, Advocate for the Petitioner.
Mr.P.K.Lakhotiya, AGP for the Respondent/State.
Mr.P.P.Mandlik, Advocate for Respondent Nos. 4 and 5.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : AUGUST 4, 2023

PER COURT :

1. On 01.08.2023, we had passed the following order :-

"1. Leave to correct prayer clause (B). Corrections be carried out forthwith.

2. *The Petitioner has put forth prayer clauses "A", "B" and "C", as under:-*

"(A) This Hon'ble Court may kindly be pleased to quash and set aside the ex-parte Order dated 06.07.2023 bearing outward number 2023/ Puravatha/ PMT/Mahagai Nirdeshank/ VasuliAadesh/ Kavi-176-146 passed by the Learned District Collector, Parbhani (ANNEXURE-E) thus

imposing recovery of dues to the tune of Rs.18,64,264/- from the Petitioner towards Dearness allowance payable to the Labourers for the period 2009 to 2019.

(B) This Hon'ble Court may kindly be pleased to direct the Respondent Authorities to permit the Petitioner to participate in the E-Tender dated 21.07.2023 bearing outward no.2023/Puravatha/PMT/ Hamalcontract/ Karya-07/ Kavi-104/178 calling upon E-Tenders for providing laborers at Government Tahsil Godowns.

(C) The Respondent Authorities be directed to disburse the excess payments made by the Petitioner towards Levy & Dearness Allowance in accordance to the Representations made by the Petitioner at ANNEXURE-D COLLECTIVELY."

3. *The learned Advocate for the Petitioner submits on instructions that a letter is addressed to the Government Labour Officer cum Secretary of the Parbhani and Hingoli District Mathadi Boards, dated 31.07.2023 and an amount of Rs.18,64,264/- vide Demand Draft No.142367 dated 27.07.2023, has been tendered without prejudice to the rights of the Petitioner.*

4. *The learned Advocate representing the Respondent Nos. 4 and 5 submits on instructions that the Demand Draft has been received and has been forwarded for being credited. A "No Dues"*

certificate would be issued today itself.

5. *In view of the above, the only issue that remains to be considered is whether the impugned recovery order was issued after hearing the Petitioner or was it an ex parte order.*

6. *By consent of the litigating parties, we are posting this matter on 04.08.2023 for passing orders."*

2. We have considered the submissions of the learned AGP in the light of the affidavit in reply dated 03.08.2023 filed on behalf of Respondent Nos. 1 and 3. The Petitioner's contention is that the District Collector would have no authority to issue the impugned notice to him. The learned AGP submits that time and again, the Petitioner was called upon to respond vide notices and on each occasion, the Petitioner has avoided appearing before the Authority.

3. The learned Advocate appearing on behalf of the Mathadi Board submits that the issue between the Petitioner and the District Collector is with regard to the rise in inflation rate and this is beyond the scope of the Mathadi Board. Such rates are to be fixed by the District Collector. The learned Advocate for the Petitioner refutes the

said submission.

4. We are of the view that instead of considering the disputed issues before us in the backdrop of the fact that the Petitioner has not appeared before the District Collector and there has been no hearing, it would be appropriate for the District Collector to consider this issue taking into account the submissions of all the parties.

5. Hence, **this petition stands disposed off** with the following directions :-

[a] The amount deposited by the Petitioner under protest, would be without prejudice to it's rights and contentions.

[b] The Petitioner would appear before Respondent No.1 on 23.08.2023 at 12.00 noon. Written notes of submissions alongwith oral submissions are permitted.

[c] After the conclusion of the hearing, the said Authority would pass a reasoned order within a reasonable time.

[d] All contentions of the Petitioner are left open to be considered by Respondent No.1.

[e] The amount deposited by the Petitioner would be subject to the

decision in pursuance to the said hearing.

[f] Consequent to the above directions, the impugned order dated 06.07.2023 would lose it's efficacy.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)