

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

WRIT PETITION NO.3243 OF 2023

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M/s. R.K. Jain Infra Project Private Limited ...Petitioner
vs.

The Office of the Authority under the Minimum
Wages Act, 1948 and Regional Labour
Commissioner (Central), Mumbai and Others ...Respondents

Mr. Kiran Bapat, Senior Advocate a/w. Mr. Neel Helekar, Mr.
Dnyanesh Patil i/b. Mr. Aakash Nilay, for the Petitioner.
Mr. Meelan Topkar a/w. Mr. Pavitra Manesh, Ms. Shraddha Chavan
i/b. Mr. Mahendra Agvekar, for Respondent No. 2.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 21, 2023

P.C.:

1. The challenge in this petition is to an order dated 19th October, 2020 passed by the authority under the Minimum Wages Act, 1948 and Regional Labour Commissioner (Central), the respondent No. 1 on an application preferred by respondent No. 2 under section 20(2) of the Minimum Wages Act, 1948 (the Act, 1948) thereby directing the petitioner to deposit the difference of minimum wages in respect of 64 workers aggregating to Rs. 1,14,20,991/- along with eight times compensation amount.

2. The petitioner is a company registered under the Companies Act, 1956. It is engaged in the business, inter alia, of toll collection.

A contract to collect the toll between Dhule and Pimpalgaon has been awarded to the petitioner. 64 workers engaged by the petitioner for the purpose of collection of toll at various toll booths between Dhule and Pimpalgaon are affiliated to Maharashtra Rajya Toll Kamgar Sanghatana, a trade union, respondent No. 2.

3. Initially respondent No. 2 preferred an application under section 33C(2) of the Industrial Disputes Act, 1947 before the Central Industrial Tribunal, Mumbai. Subsequently, respondent No. 2 filed an application under section 20(2) of the Act, 1948 and prayed for identical relief.

4. The petitioner contends the respondent No. 2 had also filed an application for condonation of delay. The petitioner had sought time to participate in the said proceedings before the respondent No. 1 as Covid 19 pandemic was at its peak. On 29th September, 2020 the respondent No. 1 noting the absence of the petitioner and other opponents proceeded to close the matter for orders. Eventually, the impugned order came to be passed on 19th October, 2020 without deciding the application for condonation of delay.

5. From the perusal of the communication dated 24th September,

2020 (Exhibit G) it becomes evident that the petitioner had sought an adjournment in the proceedings which was scheduled to be listed on 29th September, 2020 as the authorized representative of the petitioner was unable to appear before the respondent No. 1. In the impugned order also, the authority notes that the opponents including the petitioner herein had sought adjournment vide letters dated 24th September, 2020 and 29th September, 2020. Yet, the authority considered it appropriate to decide the application on the premise that the unlock process in connection with Covid 19 pandemic had started. Moreover, the impugned order, does not indicate that the authority considered and decided application for condonation of delay before passing the impugned order.

6. Having regard to the aforesaid nature of the impugned order, Mr. Topkar, the learned counsel for respondent No. 2 fairly submitted that the matter may be remitted back to the Authority for a fresh decision.

7. In the circumstances of the case, the said course appears to be expedient in the interest of justice.

Hence, the following order.

ORDER

- 1] The petition stands allowed.
- 2] The impugned order dated 19th October, 2020 stands quashed and set aside.
- 3] The application No. MCA-No.01/2020 stands restored to the file of the Authority under the Minimum Wages Act, 1948 and Regional Labour Commissioner (Central), Mumbai.
- 4] The Authority shall decide the said application afresh after providing an effective opportunity of hearing to the parties, on its own merits and in accordance with law.

Petition disposed.

(N. J. JAMADAR, J.)