

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

WRIT PETITION NO.14884 OF 2023

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| 1. | Shri Santosh Maruti Jadhav | } |
| | Age : 47, Occ: Nil | } |
| 2. | Shri Santosh Shrirang Jadhav | } |
| | Age:45, Occ: Nil | } |
| | Both R/o Atit, Tal. Khandala, | } |
| | Dist. Satara | } .. Petitioners |

Versus

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|----|---------------------------------------|-----------------|
| 1. | The State of Maharashtra, | } |
| | Through the Secretary, Industry, | } |
| | Energy and Labour Department, | } |
| | Mantralaya, Mumbai | } |
| 2. | Assistant Commissioner cum Chairman, | } |
| | Satara Mathadi and | } |
| | Unprotected Labour Board, Satara, | } |
| | 168, Ravivar Peth, | } |
| | Gramouddhar Bhavan, | } |
| | Powai Naka, Satara. 415 011. | } |
| 3. | M/s. Thermax Babcock and Wilcox | } |
| | Energy Solutions Pvt.Ltd., | } |
| | Plot No.A-2 and A-3, Village-Kesurdi, | } |
| | Post-Shirwal, Tal. Khandala, | } |
| | Dist. Satara. | }.. Respondents |

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Mr. Y.B. Lengare for the Petitioners.
Mr. Shailesh S. Pathak a/w Mr Jay V. for the Respondent No.2.
Mr. K.S. Thorat, AGP for Respondent-State.

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**CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE : 7th DECEMBER, 2023.

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J)

1. Rule. Rule made returnable forthwith.
2. Learned Assistant Government Pleader waives notice for Respondent No.1. Learned counsel waives notice for Respondent No.2. Considering the nature of directions proposed to be issued, service on Respondent No.3 is dispensed with.
3. The Petitioners claim to be Mathadi workers, engaged by the third Respondent-Company, doing the work of loading and unloading. They seek applicability of the provisions of the Maharashtra Mathadi, Hamal and other Manual Workers (Regulation of Employment & Welfare) Act, 1969 to the activities of the said company. Initially, a complaint to that effect was filed before the Labour Court, under Section 17 of the Act of 1969, which came to be dismissed on 13/07/2015. Thereafter, appeal filed before the Industrial Court came to be allowed and the proceedings were remanded back to decide the complaint afresh. Being aggrieved, the Respondent No.3-company challenged the said order by filing Writ Petition No.2526/2016, which came to be allowed by order dated 22/02/2019, wherein it was held that the appeal was not maintainable and the original complainants had the right to challenge the order of dismissal in accordance with law. The challenge raised to that order at the instance of the Board was not successful before the Hon'ble Supreme Court.

4. One of the impediments in making the provisions of the Act of 1969 applicable is the pendency of Application dated 22/04/2014 that has been moved by the Company before the State Government. An adjudication is sought with regard to the applicability of the provisions of the Act of 1969 to the said complaint. Since, this application is still pending, the following directions would serve the interests of justice.

a) The Respondent No.1 shall consider the Application dated 22/04/2014 filed by the Company under Section 5 of the Act of 1969 and take a decision thereon within a period of 12 weeks of receiving copy of this order. The same be done after giving an opportunity of hearing to the Petitioner, the Company as well as the Mathadi Board. The decision taken be communicated to the parties.

5. Keeping all points raised on merits are kept open, the Writ Petition is disposed of with no order as to costs.

[FIRDOSH P. POONIWALLA, J] [A.S. CHANDURKAR, J.]