



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 7249 OF 2016

Sarang s/o Shrirang Sonawane & others .. Petitioners

Versus

Latur & Osmanabad District Mathadi &
Unprotected Workers Board & others .. Respondents

Mr. Y. R. Marlapalle, Advocate for the Petitioners.
Mrs. K. R. Jamdhade, AGP for the State.
Mr. K. J. Ghule Patil, Advocate for Respondent No. 1.
Mr. M. P. Kale, Advocate for Respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 18th JUNE, 2024.

PER COURT :

1. Heard finally by consent of both the sides.
2. This Petition arises out of proceedings filed under Maharashtra Mathadi, Hamal And Other Manual Workers' (Regulation of Employment And Welfare) Act, 1969 (for short 'Mathadi Act'). Petitioners and other 9 Mathadi workers had preferred Writ Petition being No. 3689/2013 claiming wages/levy etc. for period from 01.07.2008 to 31.07.2014. This Court by passing order dated 31.07.2014 directed Petitioners to file application with Mathadi Board. Accordingly, Petitioners filed proceeding No. 1/2014 before Government Labour Officer/Mathadi Board. The said Authority by

passing impugned order dated 29.01.2016, refused claim of Petitioners, hence this Petition.

3. Learned counsel for the Petitioners has drawn attention of the Court to the affidavit filed by Mr. J. B. Mitke in Writ Petition No. 3689/2013 wherein he has candidly admitted to the effect that the Mathadi workers concerned are registered Mathadi workers and are being employed by the contractor for principal employer i.e. the Collector. It is his submission that in complete ignorance of the said affidavit, the very same person has recorded contrary finding in the impugned order holding that the concerned persons are not registered Mathadi workers. It is his further submission that when the obligation to maintain the record is on the Secretary of the Board, as contemplated by clause No. 9 of the Scheme dated 01.09.1990, wrongfully burden is cast on Petitioners to produce the record. Thus, according to him, the order impugned cannot sustain being contrary to facts on record and law.

4. Learned counsel for the Respondent supports the judgment by submitting that the case of the Petitioners is for the difference in wages for the period from 2008 onwards when the

revision has been made with effect from 01.06.2012. It is his further submission that the evidence adduced by one of the Petitioners shows that except for Mr. Shinde who was registered on 29.09.2011, the registration of other persons is not proved. He further submits that from 2008 to 2011, the Petitioners were not registered workers and their dates of registration are as mentioned in the impugned order and hence they are not entitled to claim any wages etc. from 2008 and claim is rightly rejected.

5. The Mathadi Act is a welfare and benevolent legislation. Intention of the enactment is to protect unprotected manual workers known as Mathadi, Hamal etc. The provisions of the act are aimed at protection of workers who are being exploited by their employers/contractors and adequate work is provided to them. The Scheme formed under the Act provides for the duties and responsibilities of the contractors as well as the principal employer. It also makes provision to cast obligation on the various authorities appointed under the said Act to perform their duties which includes duty of the Secretary to maintain record in respect of the registered Mathadi workers.

6. There is no dispute made by parties to this Writ Petition of the fact that provisions of the Act are applicable to the Respondent/Principal employer as well as to the Contractor. Further there is no denial of fact that Petitioners are involved in manual labour in the establishment of Respondents. As rightly pointed out from record by learned counsel for the Petitioners that the Government Labour Officer had filed affidavit in Writ Petition No 3689/2013, wherein there is candid admission given that the record of the registered Mathadi workers as well as requirement at the place of the principal employer through the contractor. In the light of this affidavit, it was not open for the Authority to record findings otherwise. Moreover, in view of scheme approved by Government, burden to maintain record in respect of Mathadi workers is on Secretary and such record must be placed on record of the proceeding by Secretary.

7. Though it is sought to be canvassed that the registration of the present Petitioners is after 2008, as per the dates mentioned in the impugned order, the affidavit filed by the very same authority before this Court, cannot be ignored. The authority was expected to consider his own affidavit and then pass appropriate order. All these

facts indicate that serious error is committed by Authority in passing impugned order. Having regard to the nature of the Act and its purpose, the order passed by the Government Labour Officer can not sustain and as such it deserves interference.

8. The impugned order therefore, is set aside. The proceeding bearing Claim No. 1/2014 is relegated back to the concerned authority for decision afresh. The said proceeding to be decided by other officer than Mr. Mitke. If no other officer is available having authority to entertain the proceeding in the district, the same shall be assigned to the officer of the adjoining district. Since the proceedings is of the year 2014 and it pertains to the claim of the Mathadi workers, the concerned authority is directed to decide the said proceedings in any event before six months from today.

9. Petition stands allowed in above terms.

(R. M. JOSHI)
Judge