

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

WRIT PETITION NO. 3686 OF 2012

M/s. Thermax Ltd. ... Petitioner
V/s.
State of Maharashtra and Ors. ... Respondents

with

WRIT PETITION NO. 9410 OF 2013

M/s. Excella Pencils Ltd. ... Petitioner
V/s.
State of Maharashtra and Ors. ... Respondents

with

WRIT PETITION NO. 7541 OF 2013

M/s. Crown Enterprises ... Petitioner
V/s.
State of Maharashtra and Ors. ... Respondents

with

WRIT PETITION NO. 7782 OF 2013

M/s. Sweet Confectioneries ... Petitioner
V/s.
State of Maharashtra and Ors. ... Respondents

with

WRIT PETITION NO. 10303 OF 2012

M/s. Rex Polyextrusion Ltd. ... Petitioner
V/s.
State of Maharashtra and Ors. ... Respondents

with
WRIT PETITION NO. 10096 OF 2012

M/s. Sahyadri Starch and Industries Pvt. Ltd. ... Petitioner

V/s.

State of Maharashtra and Ors. ... Respondents

Mr. Kiran Bapat, Senior Advocate with Mr. Gaurav S. Gawande i/b.
M/s. Desai & Desai Associates for the Petitioner in WP 3686/12

Ms. Pavitra Manesh i/b. Mr. Meelan Topkar for Respondent No.3 –
Board in WP 754/23, 10096/12 and 10303/12

Mr. Rahul D. Oak for Respondent No.2 in WP 3686/12

Mr. Neel G. Helekar for Respondent No.4 in WP 3686/12

Ms. R.A. Salunkhe, AGP for the Respondent – State in WP 3686/12
& WP 10096/12

Mr. S.B. Kalel, AGP for the Respondent – State in WP 9410/13

Mr. V.M. Mali, AGP for the Respondent – State in WP 7541/13

Ms. Nisha Mehra, AGP for the Respondent – State in WP 7782/13

Mr. S.H. Kankal, AGP for the Respondent – State in WP 10303/12

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 19 JUNE 2024

P.C. :-

Heard the learned Counsel for the parties. Taken up for disposal.

2. The controversy raised in the group of Petitions is filed by the employers arises under the provisions of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act 1969. The common contention of

the Petitioner – employer is regarding the applicability of the Act of 1969 to their establishment.

3. The Petitioners have challenged the decision taken by the State Government under Section 5 of the Act of 1969 holding that the Act of 1969 applies to them and they should get themselves registered. In Writ Petition No. 3686 of 2012, while issuing notice on 23 April 2012, the Division Bench of this Court had directed that no coercive action be taken. This order in Writ Petition No. 3686 of 2012 has continued. As regard the other matters, we are informed that there is no such order.

4. There is no representation on behalf of the Mathadi workers. The learned Counsel appearing for the Mathadi Board has placed before us the order passed in Writ Petition No. 10096 of 2012 and Ors. dated 2 August 2016 to contend that an identical order passed by the State Government was the subject matter of challenge in this Petition, which challenge has been negated.

5. Be that as it may, the proceedings which led to these Petitions were initiated some time in the year 2008-09. The impugned order is passed more than a decade ago. As pointed out by the learned Counsel for the parties, substantial changes on site as regard the factual position is concerned have taken place. None of these have been brought on record. It is not possible to proceed on

the basis of factual position in the year 2008-09 and decide the Petitions on that basis in 2024. We are informed that in some cases the employers have registered themselves. In some cases the Mathadi workers are working.

6. In light of these developments by passage of time, according to us, the appropriate course of action would be that the Mathadi Board, which is a statutory authority constituted under the Act of 1969 to regulate the employment and the conditions of Mathadi workers and obligations of the employers, should take a review of this situation as exist today and to take appropriate steps/directions. The Mathadi Board should call the representative of the employer and the union to ascertain the factual position and pass necessary orders.

7. Accordingly, the Petitions are disposed of by the following order :-

(i) The Respondent – Mathadi Board in each of these Petitions will, within a period of four weeks from today, issue notices to each of the employers, toli/union of Mathadi workers, the contractors (where applicable), calling upon them to submit their written say. Thereafter, the Mathadi Board to carry out the field visit, (wherever applicable) and after considering the entire

factual situation as it exist till today, will pass necessary orders within a period of eight weeks of the conclusion of the field visit and the pleadings.

(ii) It is open to the employers and the union/toli to arrive at a consensus before the Mathadi Board. The parties aggrieved by the decision/direction of the Mathadi Board, will be at liberty to take appropriate steps.

(iii) In case the situation so arise, the challenge to the impugned orders are kept open.

8. The Writ Petitions are accordingly disposed of in above terms.

M.M. SATHAYE, J.

NITIN JAMDAR, J.