

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7125 OF 2021

WITH

WRIT PETITION NO.1817 OF 2021

Oriental Integrity Facility Management

Pvt.Ltd Through Attorney Heena Usmani

.... Petitioner

Versus

Regional Labour Commissioner (Central)

Mumbai And Ors.

.... Respondents

....

Mr. Rishi Ashok, a/w. Mr. Priyanka K. for the Petitioner.

Mr. Jaiprakash Sawant, for the Respondent No.2.

Mr. S. L. Babar, AGP for State.

....

CORAM : SANDEEP V. MARNE, J.

DATED : 09 JANUARY 2024.

P. C. :

The challenge in the present petitions is to the Orders dated 19 August 2019 passed by the Regional Labour Commissioner, Mumbai (**Authority**) under the Minimum Wages Act, 1948 (**Minimum Wages Act**) imposing the compensation of Rs.60,16,880/- in respect of action of the Petitioner in not paying timely wages to 24 employees.

2. It is the contention of the Petitioner that the Authority has erroneously applied provisions of Minimum Wages Act while determining quantum of compensation when Payment of Wages Act, 1936 specifies fixed amount of compensation. According to him, in the present case, there is no

dispute about rates of wages payable to the employees. The dispute was about non-payment of wages. That the dispute about non-payment of wages can be determined under provisions of Payment of Wages Act and not under the Minimum Wages Act.

3. Be that as it may. It appears that petitioner was not heard at the time of passing of Order dated 19 August 2019 on account of it's absence. Though the Authority cannot be entirely faulted in passing the Order in absence of Petitioner, who was given repeated chances, the absence of Petitioner has resulted in a situation where the objection raised about applicability of provisions of Payment of Wages Act has not been considered while passing of the impugned Order by the learned Authority. It would therefore be appropriate to remand the proceedings before the learned Authority so that objection of the Petitioner with regard to computation of compensation prescribed under the provisions of Payment of Wages Act can be considered by the learned Authority. Petitioner would be at liberty to rely upon various Judgments cited before this Court in respect of it's contention that the dispute with regard to non-payment of wages need to be determined under the provisions of Payment of Wages Act and not under the provisions of Minimum Wages Act. Accordingly proceedings before the learned Authority shall stand restored by setting aside the Orders dated 19 August 2019. Parties shall appear before the learned Authority on 29 January 2024 at 11.00 a.m. and obtain further directions. With the above directions, Writ Petitions are disposed of. All the contentions of the parties on merits are left open

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SANDEEP V. MARNE, J.