

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

WRIT PETITION NO. 13746 OF 2023

The State of Maharashtra & Ors.

...Petitioner

V/s.

The Maharashtra Rajya Sarvajanik
Bandhkam Karmachari Sangh

...Respondent

Mr. S.H. Kankal, A GP for State-Petitioner.

**Mr. Sanjay Singhvi, Senior Advocate i/by. Mr. Ganashyam
Thombare, for the Respondent.**

CORAM : SANDEEP V. MARNE, J.

Dated : 22 February 2024.

P.C. :

1) By this petition, the State Government challenges the Order dated 20 February 2020 passed by the Member, Industrial Court, Mumbai on application at Exhibit-U-2 filed in Complaint (ULP) No. 239 of 2019. The operative portion of the Order dated 20 February 2020 reads thus :

1. *The application below Exh U-2 is partly allowed.*
2. *Respondents are directed to pay wages as per the provisions of the Minimum Wages Act to the concerned*

workers by depositing the same in this Court before 7th day of each month.

3. The concerned annexed workers are at liberty to withdraw the wages as and when the same are deposited and duly credited in the account of this Court from time to time.

4. Respondents are restrained from terminating the services of annexed workers without following due process of law.

5. Declared in open Court.

2) Mr. Kankal, the learned AGP appearing for the Petitioners, on instructions, would submit that the Petitioners are already paying salaries corresponding to Minimum Wages Act, 1948 (**the Act**) to the concerned contract workers. There is debate between the parties as to whether the concerned workers are direct employees of the Company of the Petitioner or whether they are the contract employees. This is something which would be resolved by the Industrial Court at the time of final hearing of the complaint. The Scheme of the Act is such that even if there is presence of a contractor, the Petitioners will become the principal employer for the purpose of ensuring that minimum wages are paid to the contract workers. Therefore, irrespective of the fact whether the payments are made directly by the Petitioners to the workers or whether the payments are routed through a Contractor, there is a responsibility on the Petitioners in their capacity as principal employer to ensure that wages not less than the minimum wages, prescribed under the Act, are paid to the workers concerned. Mr. Kankal, would submit that Petitioners shall ensure that the concerned contract workers are paid minimum wages as notified under the provisions of the Act from time to time through their respective Contractors. Mr. Singhvi, the learned advocate appearing for Respondents, would submit

that without prejudice to their rights and contentions, the concerned workers are ready to accept payments through the so called Contractors at the moment.

3) In that view of the matter, nothing needs to be adjudicated further in the petition. The statement made on behalf of the Petitioners that minimum wages notified from time to time under the provisions of the Act shall be paid to the contract workers through the Contractor by directly depositing the same into the accounts of the concerned workers during pendency of Complaint (ULP) No. 239 of 2019 is accepted and recorded. This would be without prejudice to the rights and contentions of the parties in the complaint. Recording the statement made on behalf of the Petitioners, the Writ Petition is **disposed of**.

SANDEEP V. MARNE, J.

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