

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

WRIT PETITION NO. 9837 OF 2012

M/s. Deepak Nitrite Limited ... Petitioner

versus

Grocery Markets and Shops Labour
Board, Mumbai and Others ... Respondents

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Mr.Avinash Jalisatgi with Ms.Divya Wadekar for the Petitioner.

Mr.Rahul Oak for Respondent Nos. 1 and 2.

Ms.Neha Bhide, 'B' Panel Counsel and Ms.Rupali Shinde, AGP for
Respondent No.3.

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

DATE : 01 March 2024.

P.C. :

Heard the learned Counsel for the parties.

2. The Petitioner – employer has filed this petition on 10 October 2012 challenging the notices/ communications issued by Respondent Nos. 1 and 2- Grocery Markets and Shops Labour Board, Mumbai (the Board). Notices are dated 16 July 2012, 24 July 2012, 1 October 2012 and 5 October 2012.

3. By the impugned notices/ communications, the Board has directed the Petitioner to avail of services of 23 mathadi workers. The Petitioner has filed this petition challenging this direction on various grounds including that Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (the Act of 1969) does not apply to the Petitioner.

4. When this petition came up on board on 18 October 2012, interim order was passed directing that no coercive steps be taken against the Petitioner. This interim order has continued till date, and thereby impugned order has not come into effect.

5. We are informed that in last 12 years, the mathadi workers, who were directed to be taken in the employment of the Petitioner, have adopted independent remedies. The factual position must have undergone a substantial change. In these circumstances, without reference to the subsequent developments, position of the workers, who were directed to be taken into service, no purpose would be served in examining the validity of the notices/ communications.

6. In light thereof, we direct the Respondent – Board to take into consideration the passage of time and the subsequent developments, and take a decision within a period of 12 weeks whether the impugned notices or the communications issued need to be enforced or they need to be dropped. Till the Board takes a fresh decision, the

direction that not to take coercive action on the basis of the impugned order will continue.

7. We grant liberty to the Petitioner to place all subsequent developments before the Board to enable them to take a decision as above.

8. We keep all contentions of the parties including that of regarding applicability of the Act of 1969 open. In case any adverse order is passed upon reconsideration of the Board, we grant liberty to the parties to adopt their legal remedies.

9. The writ petition is accordingly disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)