

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11630 OF 2015
WITH
CIVIL APPLICATION (ST.) NO. 23039 OF 2017
IN
WRIT PETITION NO. 11630 OF 2015

M/s. Samiksha Construction Company	...	Petitioner
Versus		
The State of Maharashtra and Others	...	Respondents

Ms.Pavitra Manesh i/b. Meelan Topkar for the Petitioner.
Mr.B.V.Samant, Addl. GP with Ms.R.A.Salunkhe, AGP for the
Respondent –State.
Mr.M.L.Patil for Respondent No.3- Municipal Corporation.

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

DATE : 29 APRIL 2024

P.C. :

. Heard the learned Counsel for the parties.

2. The Petitioner, a construction company, carries on the work of door to door collection of solid waste and transportation. In the year 2013, Respondent No.3- Nashik Municipal Corporation issued a public advertisement inviting e-tenders from agencies for the work of door to door collection of solid waste and transportation to

composting plant. The Petitioner submitted a tender and the Petitioner's tender was accepted. In the year 2013, the Petitioner and Respondent No.3 entered into an agreement which was further extended by agreement dated 10 August 2015. The work order was issued to the Petitioner.

3. The Petitioner was paying its employees for the work of door to door collection of solid waste as per minimum wages fixed by notification dated 15 February 2003 under Minimum Wages Act, 1948. The minimum wages fixed by notification dated 15 February 2003 were revised by notification dated 28 September 2010. Thereafter, a notification issued on 24 February 2015 revising minimum wages applicable to the scheduled employment.

4. It is the Petitioner's case that this notification does not apply to the Petitioner's establishment, and it applies to the employees of the local authority. The Petitioner contends that it is a private employer and its employees doing the work of sweeping or scavenging are not the employees of local authority, however, Respondent No.3 informed the Petitioner to implement notification dated 24 February 2015. It is contended that on 21 October 2015, the Deputy Commissioner of Labour informed Respondent No.3 that the notification fixing minimum wages for sweepers and scavengers is also applicable in respect of the workers engaged for sweeping and scavenging by the local authorities through contractor and

Respondent No. 3 has called upon the Petitioner to make the payment as per notification dated 24 February 2015, and on these grounds, coercive steps are being taken by Respondent No.3 to recover the wages due. The Petitioner filed this petition on 20 November 2015.

5. The Petitioner has prayed for a declaration that notification dated 24 February 201 fixing minimum wages is not applicable to the Petitioner and sought to set aside all actions taken by Respondent No.3 based on the notification dated 24 February 2015 as against the Petitioner.

6. While this petition was pending, on 31 December 2015, the Municipal Corporation based on notification of 24 February 2015 and liability of the Petitioner to pay the amount of difference and since the amount is not being paid, the Petitioner was blacklisted. This order was challenged by way of amendment. The learned Counsel for Respondent No.3- Municipal Corporation pointed out that the order of blacklisting the Petitioner no longer exists. This aspect therefore does not survive.

7. As regards the declaration sought by the Petitioner that the notification dated 24 February 2015 does not apply to the Petitioner, we find no merit in the same. Notification dated 24 February 2015 is issued in exercise of the powers under clause (b) of sub-section (1) of Section 3 read with sub-section (2) of Section 5 of the Minimum

Wages Act, 1948. Under this provision, the State, after consulting the Advisory Board, has power to revise minimum wages payable to the employees employed in the scheduled employment. This revision takes place from time to time. Notification of 24 February 2015 has referred to minimum wages payable to the employees employed under any local authority and has listed classes of the scheduled employment. Considering that Minimum Wages Act, 1948 is a beneficial provision to the employees working with the contractor employed by the local authority, who carried out its statutory duty, cannot be excluded.

8. Even otherwise under the terms of the contract entered into with the Petitioner and Respondent No.3, the Petitioner has agreed to abide by all prevailing labour laws especially the Minimum Wages Act, 1948. Therefore, even under the terms of the contract, the Petitioner cannot contend that revision in minimum wages payable does not apply to the Petitioner.

9. The State has filed its reply affidavit through Deputy Labour Commissioner wherein it is stated that notification of 24 February 2015 clearly to be applicable to employment under any employment of local authority industry meaning thereby agencies such as the Petitioner.

10. Therefore, we do not find any merit in the prayer for declaration as sought for by the Petitioner. If the Petitioner has any

dispute arising from the contract that has entered into with the Municipal Corporation in respect of any financial matters, the course of action, subject to limitation etc., is always open to the Petitioner.

1.1 Writ petition is accordingly rejected.

12. In view of disposal of the writ petition, nothing survives in the civil application and the same is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)