

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.613 OF 2024**

Nashik Municipal Karmachari
Kamgar Sena

....Petitioner

V/s.

The Commissioner, Nashik Municipal
Corporation

....Respondent

Mr. Meelan Topkar i /b. Mr. Saurabh Mallik for the Petitioner.

Mr. M.L. Patil for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 25 June 2024.

P.C. :

1) Rule. Rule is made returnable forthwith. With consent of the parties, matter is taken up for hearing and final disposal.

2) The limited grievance raised by Petitioner -Union in the present petition is about non-payment of wages to its members for extremely short period from 1 September 2015 till 28th February 2016. It appears that the members of the Petitioner-Union worked as workers of the contractor, who was awarded contract for cleaning of Chitrapat Maharshi Dadasaheb Phalake Smarak and Buddhavihar of Municipal Corporation, Nashik. It appears that the Contractor stopped the work and there was some time gap till new contractor was appointed. It appears that the members of the Petitioner-

Union continued the work of cleaning Phalake Smarak and Buddhavihar during said time gap. It appears that the Municipal Corporation was also in need of workers for carrying out cleaning activities at the site in absence of appointment of new contractor. Therefore, during the time gap from 1 September 2015 and 28 February 2016 the members of the Petitioner-Union demanded wages from the Municipal Corporation. It appears that the Standing Committee of the Municipal Corporation adopted resolution on 31 March 2016 granting financial approval for an amount of Rs.36,53,160/- towards wages of the members of Petitioner-Union during the period from 1 September 2015 to 28 February 2016. Since the resolution was adopted by the Standing Committee on 31 March 2016 ideally the payments should have been released to the concerned workers. However, for the reasons unknown, the Municipal Corporation did not pay the wages despite adoption of resolution by the Standing Committee. This led to filing of complaint by the Petitioner-Union before the Industrial Court, Nashik. By Judgment and Order dated 18 March 2023, the Industrial Court has proceeded to dismiss the complaint essentially on the ground that the concerned workers were never appointed by Municipal Corporation.

3) In my view there is no denial to the fact that the concerned workers have carried out work of cleaning of Phalake Smarak and Buddhavihar during the period from 1 September 2015 to 28 February 2016 and this is the reason the Standing Committee of the Municipal Corporation passed resolution on 31 March 2016 for payment of wages to the said workers from September-2015 to February-2016. In my view therefore without recognizing the concerned workers as in service of the Municipal Corporation, at least wages

for the said period for the work performed by them need to be released. The main apprehension of the Municipal Corporation appears to be the claim raised to it by the concerned workers of rendering direct services to the Municipal Corporation. It is therefore required to be clarified that mere payment of wages from September-2015 to February-2016 shall not be construed to mean as if concerned workers have rendered services with the Municipal Corporation or that they became employees of the Municipal Corporation in any manner.

4) Accordingly, the writ petition succeeds. Judgment and Order dated 18 March 2023 passed by the Member, Industrial Court, Nashik in Complaint (ULP) No.137 of 2016 is set aside. As per the resolution adopted by the Standing Committee of Municipal Corporation on 31 March 2016, the Municipal Corporation shall pay wages to the concerned workers during the period from 1 September 2015 to 28 February 2016. Necessary payment shall be made within a period of three months from today.

5) With the above directions, the writ petition is disposed of. Rule is made absolute.

[SANDEEP V. MARNE, J.]