

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 2491 OF 2024**

Shramik Utkarsha Sabha, Through General Secretary, Sion Circle, Mumbai ...Petitioner

*Versus*

State of Maharashtra and Ors.

...Respondents

Mr. Yogendra Pendse (through video conferencing) i/b. Ms. Priyanka Patkar for the Petitioner.

Ms. Nisha Mehra, AGP for the Respondent Nos. 1 to 3.

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

**DATE : 9 JULY 2024**

**P.C.:**

1. Heard learned counsel for the parties and the learned AGP.
2. The Petitioner is a Union has filed an application under Section 20(2) of the Minimum Wages Act, 1948 ('the said Act' for short) before the Assistant Commissioner of Labour, Raigad on behalf of 37 workers working with Respondent No.4 for their claim of difference between actual salary and salary under the said Act.
3. The application bearing No. 1 of 2018 was filed on 4 September 2018. The Assistant Commissioner of Labour, Respondent No. 2 issued summons to Respondent No. 4 on 18 September 2018. Thereafter, according to the Petitioner the matter appeared before the Assistant Commissioner of Labour at least 15

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times. Respondent No.4 did not appear and the matter was heard ex-parte and the Assistant Commissioner Labour passed order on 11 July 2019 directing Respondent No. 4 to pay the difference amount. Respondent No. 4 sought to recall the order and made an application to the Deputy Commissioner of Labour, Raigad Panvel. Even that was not pursued and was dismissed on 2 December 2022. In spite of orders dated 11 July 2019 and 2 December 2022, compliance is not made, therefore the Petitioner is before us.

4. When the petition came on board on earlier date, the learned counsel for the petitioner sought to place on record additional affidavit as to whether the aforesaid orders have been challenged. Additional affidavit is filed stating that the orders of the Assistant Commissioner and Deputy Commissioner of Labour dated 11 July 2019 and 2 December 2022 are not challenged.

5. Under section 20 of the said Act, the Labour Commissioner is appointed for adjudication of the claims. The Act provides for penalties in respect of contravention of the provisions of the Act. Therefore, the Commissioner of Labour after passing of the order, is not powerless to ensure that the orders are complied with.

6. In the present case, it appears that Respondent No. 4 has not complied with the aforesaid orders since last five years. The Respondent No. 4 has not challenged the decisions and in these circumstances, the Commissioner of Labour should examine this position and exercise powers under the said Act to enforce the

compliance of his orders.

7. For that purpose we permit the Petitioner to apply to the concerned Labour Commissioner with this grievance. Upon such application the Commissioner of Labour will issue notice to Respondent No. 4 and examine whether Respondent No.4 has paid the amount as per the orders and if not, proceed to take such deterrent measures as may be warranted in law. All the statutory authorities will aid the Commissioner of Labour in enforcing compliance of his orders within the parameters of their statutory duties.

8. Writ petition is accordingly disposed of.

( M.M. SATHAYE, J.)

( NITIN JAMDAR, J.)