

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12821 OF 2024

JSW Steel Limited

... Petitioner

Versus

The State of Maharashtra

Thr. The Deputy Secretary Dept. and Ors. ... Respondents

...

Mr. Sudhir Talsania, Senior Advocate a/w Mr. Naushad Engineer,  
Senior Advocate a/w Mr. Sunil Gangan, Sharad Bansal and  
Swapnil Shikhare i/b. RMG Law Associates, Advocates for the  
Petitioner.

Mr. B.V. Samant, Addl. G.P. a/w Mr. U.G. Badgujar, AGP,  
Advocate for the Respondent Nos.1 to 3.

Mr. Prathamesh T. Bhanuwanshe, Advocate for the Respondent  
No.4.

...

CORAM : RAVINDRA V. GHUGE

&

M.M. SATHAYE, JJ.

DATE :- 15<sup>th</sup> OCTOBER, 2024

**Per Court :-**

1. The Petitioner has put forth prayer clause (a) and  
(b), as under :-

*“(a) that this Hon’ble Court may be pleased to  
issue a writ of certiorari or mandamus or a writ  
in the nature of certiorari or mandamus or any  
other appropriate writ, order or direction,  
thereby quashing and setting aside the*

Digitally signed  
by PALLAVI  
MAHENDRA  
WARGAONKAR  
Date:  
2024.10.22  
12:07:35  
+0530

*impugned Demand Notice dated 11<sup>th</sup> October 2023 Exhibit S issued by Respondent No.3 and Demand Notice dated 10<sup>th</sup> May 2023 issued by Respondent no.4 and the undated order determining the amount of wages against the Petitioner being at Exhibits AA & BB and letters dated 3<sup>rd</sup> December 2021 and 14<sup>th</sup> December, 2021 being Exhibits F & H;*

- b) *that pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to stay the effect, operation, execution and implementation of the impugned Demand Notice dated 11<sup>th</sup> October 2023 issued by Respondent No.3 and Demand Notice dated 10<sup>th</sup> May 2023 issued by Respondent no.4 and Undated Order passed by Respondent no.4 and letters dated 3<sup>rd</sup> December 2021 and 14<sup>th</sup> December, 2021 being Exhibits F & H.”*

2. We have considered the submissions of the learned Senior Advocate Mr. Sudhir Talsania and Mr. Naushad Engineer, Senior Advocate a/w Mr. Sunil Gangan, Sharad Bansal and Mr. Swapnil Shikhare for the Petitioner and the learned Additional Government Pleader Mr. B.V. Samant and learned AGP Mr. U.G. Badgujar, for the Respondent - State and Mr. Prathamesh T. Bhanuwanshe, learned Advocate for the Security Guard Board – Respondent No.4.

3. Considering the order that we intend to pass, we are not adverting to the contentious issues that emerge from the record. Suffice it to say that the impugned demand notice dated 11<sup>th</sup> October, 2023 was issued by Respondent No.3. The judgment notice dated 10<sup>th</sup> May, 2023 was delivered by Respondent No.4, as well as the undated order passed by Respondent No.4 with the covering letters dated 3<sup>rd</sup> December, 2021 and 14<sup>th</sup> December, 2021, have been issued by the Board, which was unaware of the order of exemption dated 8<sup>th</sup> February, 2018 and 5<sup>th</sup> June, 2023. It is undisputed that the period for which the demand notices have been issued, are covered by the exemption notifications dated 8<sup>th</sup> February, 2018 and 5<sup>th</sup> June, 2023.

4. The notification dated 8<sup>th</sup> February, 2018 sets out in paragraph 3 that the exemption granted under Section 23 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 would exempt the Security Guards engaged by the Petitioner from the operations of the provisions engrafted in the Act and the scheme from the date of

the agreement between the employer agency and the principle employer, till the date of publication of the notification in the Official Gazette and for a further period of 3 years from the date of publication. This exemption is subject to the conditions that are set out below Schedule – II.

5. Primarily, the embargo created is under condition Nos.8 and 12, *inter-alia*, with other conditions that are set out. Similar is the purport of the notification dated 5<sup>th</sup> June, 2023. With regard to the notification dated 8<sup>th</sup> February, 2018, the bipartite agreement is dated 22<sup>nd</sup> March, 2018 and the notification would grant exemption for a period of 3 years thereafter.

6. Similarly, in relation to the notification dated 5<sup>th</sup> June, 2023, the date of agreement is 9<sup>th</sup> July, 2021 and as such, the notification would cover the period of the agreement commencing from 9<sup>th</sup> July, 2021 until the date of the notification and further for a period of 3 years from the date of the publication of such notification. Since the period for which the

demand notice has been issued by the Competent Authority is covered by the exemption, this matter needs to be remanded to the concerned Authority for reconsideration keeping in view the applicability of the exemption notifications and their effect on the claim made before the board by a Union for its workers, which is not impleaded in this Petition.

7. The learned Advocate representing Respondent No.4 submits, on instructions, that the said Authority was oblivious of these two notifications. If this Court directs the rehearing in this matter by keeping in view the notification and its effect considering the provisions of the 1981 Act, the board would follow the due procedure that is required to be followed while conducting hearing in the matter and by granting adequate opportunity of hearing to all the stakeholders, an order would be passed after taking into account the two notifications.

8. In view of the above and only for the reason that two exemption notifications were not before the concerned Authority when the impugned Demand Notices were issued, that this

Petition is partly allowed. Demand Notice dated 10<sup>th</sup> May, 2023, 11<sup>th</sup> October, 2023 and the letter dated 3<sup>rd</sup> December, 2021 and 14<sup>th</sup> December, 2021 as well as Undated order determining the amount of wages, enclosed at page 181 in the Petition paper-book, shall stand set aside. It is clarified that these Notices/ letters have been set aside only to enable the board to consider the fact of two exemption notices and pass an order on the merits considering various provision of the 1981 Act.

9. By consent of the parties, the Petitioner would appear before Respondent No.4 on 4<sup>th</sup> November, 2024 at 12.00 noon. Formal notices are dispensed with. Thereafter, all the stakeholders would abide by the dates of hearing on which the proceedings would be set down for a hearing and by following the due procedure laid down in law and by granting a reasonable opportunity of hearing to all the stakeholders, Respondent No.4 shall pass a reasoned order. Needless to state, all contentions of all the stakeholders are kept open.

**(M.M. SATHAYE, J.)      (RAVINDRA V. GHUGE, J.)**