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

WRIT PETITION NO. 7093 OF 2024

**Raigad District Security Guard
Board .. Petitioner**

Versus

Steel Authority of India Ltd. & Anr. .. Respondents

**WITH
INTERIM APPLICATION NO. 9213 OF 2024
IN
WRIT PETITION NO. 7093 OF 2024**

**Tara Chand Infra Logistic
Solutions Ltd. .. Applicant**

In the matter between:

**Raigad District Security Guard
Board .. Petitioner**

Versus

Steel Authority of India Ltd. & Anr. .. Respondents

Mr. Sanjay P. Shinde a/w Mr. Prathamesh T. Bhanuwanshe for petitioner.

Mr. Anant Upadhyay, Pravin Kamble and Payal Upadhyay for respondent nos.1, 2 and 3/SAIL.

Mr. Sajeev Sawant a/w B. K. Barve, Sandeep Barve, Vijay Hamare i/by B. K. Barve & Co. for applicant in IA/9213/2024.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 25th JUNE, 2024

P.C.:

INTERIM APPLICATION NO. 9213 OF 2024:

1. By moving this Interim Application, a prayer has been made by the applicant to permit the applicant to intervene in the matter as party-respondent. The prayer has been sought on the ground that it is the applicant who has been awarded the subject tender which is under challenge in the writ petition.

2. Learned counsel for the petitioner as also the learned counsel for respondent nos.1 to 3- SAIL do not have any objection to the said prayer.

3. Accordingly, Interim Application is allowed in terms of prayer clause (A). Let the applicant be impleaded as party respondent no.4 in the writ petition. Necessary amendment shall be incorporated during the course of the day. Re-verification is dispensed with.

WRIT PETITION NO.7093 OF 2024:

4. Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, petition is taken up for final disposal.

5. Heard Mr. Sanjay Shinde, learned counsel representing the petitioner, Mr. Anant Upadhyay, learned counsel representing the respondent nos.1 to 3 and Mr. Sanjeev Sawant, learned counsel representing the newly impleaded respondent no.4.

6. This petition has been filed by Raigad District Security Guard Board, which is a statutory body established under a State Legislation known as "the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (hereinafter referred to as "the 1981 Act").

7. Challenge made in the instant petition, filed under Article 226 of the Constitution of India, relates to award of tender for appointment of Consignment Handling Agency (CHA) contractor at SAIL Warehouse, Kalamboli, Navi Mumbai – 410 218.

8. Submission of the learned counsel for the petitioner-Board is that the respondent no.1 has already deployed security personnels, who are registered under the 1981 Act and accordingly the award of tender without a condition of deployment of registered security guards registered under the 1981 Act cannot be given effect to as the same would be in violation of various provisions contained in the said Act and

the Rules framed thereunder known as "the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Rules, 1981 (hereinafter referred to as "the 1981 Rules").

9. Learned counsel for the petitioner has drawn our attention to Rule 28 of the 1981 Rules, which puts certain restrictions and mandates, *inter alia*, that every registered principal employer may either engage for employment Security Guards registered with the Board or the Security Guards of the employer agency registered with the Board or may employ any person who is a direct employee of such employer. Sub Rule (2) of Rule 28 provides for certain relaxation with the prior approval of the Chairman of the Board. He has also drawn our attention to Rule 25(2) of the 1981 Rules which provides that a registered principal employer shall not employ a Security Guard other than a Security Guard who has been allotted to him by the Secretary in accordance with provisions of clause 8(e). He has, thus, stated that in absence of any stipulation in the work order issued in favour of respondent no.4 for abiding by the mandatory provisions contained in the 1981 Act and the Rules, such work order cannot be permitted to be executed as

the same would be violative of mandatory provisions of the 1981 Act and the Rules framed thereunder.

10. On the other hand, learned counsel for respondent nos.1 to 3 as also learned counsel for respondent no.4, have vehemently opposed the writ petition stating that Board does not have any locus to challenge the tender process or the work order for the simple reason that neither was it a competing party in the tender process nor is the Board in any manner concerned with appointment of Consignment Handling Agency or contractor for taking care of the requisite works at the SAIL Warehouse. It has also been brought to our notice that having been given the work order pursuant to the subject tender, the respondent no.4 has taken over charge of the Warehouse and is in the process of deploying the security personnels as well in part fulfilment of its obligation of the work order.

11. Learned counsel representing the respondent no.4 has also stated that the contractor/its agency has moved the State Government under Section 23 of the 1981 Act seeking exemption from the operation of the provisions of the 1981 Act, Rules or any such scheme framed thereunder.

12. Having heard the learned counsel for the parties, we are of the clear opinion that Board having been created under the 1981 Act has been vested with certain powers and authority which are aimed at ensuring the welfare of the security personnels being deployed by various agencies and so far as the tender process or work order is concerned, the Board cannot be said to have any locus to challenge the same. The concern of the Board, in fact, is to ensure that any agency or any State authority or any other body shall abide by the mandates as contained in the 1981 Act or the Rules framed thereunder or any other scheme framed under the said Act. Enforcement of the mandates given by the Act or the Rules or scheme framed thereunder does not entitle, in our considered opinion, the Board to challenge any tender process.

13. However, having observed as above, we also share the concern of the petitioner-Board that every agency, including the respondent nos.1 and 4, has to necessarily comply with various mandatory provisions contained in the 1981 Act, the Rules framed thereunder and any scheme framed under the said Act. Thus, the concern of the Board has to be confined to effective implementation of the provisions of the Act, Rules and the scheme.

14. At this juncture, Mr. Shinde, learned counsel for the petitioner has very fairly stated that primary concern of the Board being ensuring the provisions of the 1981 Act, Rules and the scheme, the prayer seeking quashing of the work order or the tender process may not be considered. However, he states that necessary directions may be issued to all concerned to comply and follow the provisions contained in the 1981 Act, Rules and the scheme, if any, framed under the said Act.

15. Thus, having found that the prayer relating to quashing of the work order or the tender process cannot be entertained at the behest of the petitioner and also having regard to the overall facts and circumstances of the case as also the provisions of the 1981 Act, Rules and the scheme, if any, we dispose of the writ petition with the following directions: -

- (a) The respondent No.1 and respondent No.4 or any of their agencies shall strictly follow the provisions of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, the Rules framed thereunder and the scheme framed, if any, under the said Act.

- (b) In case of violation by any agency or authority or persons in following the mandatory provisions of the 1981 Act, Rules and the scheme, it will be open to the petitioner-Board or any other competent authority under the 1981 Act to take appropriate action which may be warranted and permissible under law.
- (c) This order, however, will not impede the right of the respondent no.4 to make application under Section 23 of the 1981 Act seeking exemption and if any such application is made, the same shall be considered by the competent authority in accordance with law, with expedition.

16. The petition stands disposed of accordingly. Interim Application, if any, also stands disposed of.

17. There will be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)