

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1867 OF 2003

Bharat Sanchar Nigam Ltd. .. Petitioner

Vs.

Security Guards Board for Brihan Mumbai
& Thane, Bhandup (W), Mumbai .. Respondent

Ms. Neeta Masurkar for the Petitioner.

Mr. Amardev J. Uniyal, with Mr. B.L. Mangale and Adv. S. Karkada, for
the Respondent.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ**

DATE : 15TH JANUARY, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. The challenge raised in this writ petition is to the communication dated 11th March 2003 that has been issued by the Security Guards Board for Brihan Mumbai & Thane District – respondent herein. In the said communication, reference is made to the order passed under Section 14 of the Maharashtra Private Security Guards (Regulation of Employment & Welfare) Act, 1981 and the petitioner has been called upon to pay an amount of Rs.1,96,846.98 towards wages, allowances and levy thereon for the period from July 2002 to November 2002.

2. According to the learned counsel for the petitioner, the provisions of Section 14(3) of the Act of 1981 required grant of an opportunity of hearing to be given before any adjudication is undertaken by Rule 14 of

the Act of 1981. Though a notice is stated to be issued to the petitioner indicating the hearing to be conducted on 21st January 2003, it is pointed out that this notice was received by the petitioner on 22nd January 2003. A request was made for granting a suitable date to enable the petitioner to participate in the enquiry. However, without granting such opportunity, the adjudication has been undertaken. It is urged that the order suffers from violation of principles of natural justice.

3. The learned counsel for the respondent supported the impugned communication and submitted that the determination of dues is in accordance with law. He is, however, not in a position to factually dispute the contentions as raised regarding lack of proper opportunity.

4. Having heard the learned counsel for the parties and having perused the documents on record, we find that the notice of hearing that was issued to the petitioner was served on it on 22nd January 2003. This fact was brought to the notice of the Board on 23rd January 2003 and an opportunity of hearing was sought, which has not been granted and the proceedings under Section 14 of the Act of 1981 have been decided. Considering the statutory provisions that require grant of reasonable opportunity, we find that such reasonable opportunity has not been granted to the petitioner. Hence, on this short ground, the order passed under Section 14 of the Act of 1981 is liable to be set aside.

5. For aforesaid reasons, the following order is passed :-

- (i) The order dated 11th March 2003 issued by the Security Guards Board for Brihan Mumbai & Thane District, adjudicating the amounts due from the petitioner, is set aside on the ground that it has been passed without hearing the petitioner.
- (ii) The Board is permitted to conduct an enquiry, as contemplated under Section 14 of the said Act of 1981, in terms of it's Show Cause Notice dated 30th October 2002.
- (iii) The enquiry shall be conducted in accordance with the provisions of Section 14 of the Act of 1981.
- (iv) All points on merits are kept open for being raised before and considered by the Board.
- (v) Since the show cause notice is dated 30th October 2002, the proceedings be completed expeditiously and preferably within a period of three months from receiving copy of this order.

6. Rule is made absolute in the abovesaid terms, leaving the parties to bear their own costs.

[JITENDRA JAIN, J.]

[A.S. CHANDURKAR, J.]