



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition Nos. 7479 of 2019

[Priyadarshani Indira Mahila Vikas Sanstha, Amravati, through its President Shri P. B. Warghat ..vs..
Assistant Labour Commissioner, Nagpur and ors.]

with

Writ Petition No. 7492 of 2019

[Priyadarshani Indira Mahila Vikas Sanstha, Amravati, through its President Shri P. B. Warghat ..vs..
Assistant Labour Commissioner, Nagpur and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. R. Puri, Advocate for the petitioner
Ms. S. N. Thakur, AGP for respondent no. 1
Mr. C. F. Bhagwani, Advocate for respondent no. 2, 3 to 9, 11, 12, 14, 15,
16 and 17 in WP No. 7479/2019 and for respondent nos. 2 to 5 in
W.P. 7492/2019

CORAM : ANIL L. PANSARE J.

DATED : 05-08-2024

Heard.

2. Common question is involved and, therefore, petitions are decided by common order. For the sake of convenience, facts of Writ Petition No. 7479/2019 are considered.

3. Following three orders passed by this Court are relevant and read thus :

Order dated 24-6-2024 :

“The basic contention of Petitioner is that it has been given no opportunity of hearing. It is/was unaware of pendency of the proceedings. In other words, it is the case of the Petitioner that notice was either not served on it or it was not aware of pendency of the Petitions.

2. *The learned AGP seeks time to take instructions as to whether entire set of Record and*

Proceedings has been sent, because Roznama placed on record does not indicate that Petitioner was served with the proceedings or that there are documents to show that notices were sent to the Petitioner through registered post.

3. *Stand over to 8th July, 2024.”*

Order dated 8-7-2024 :

“1. *In response to order dated 24.06.2024, the learned AGP has sought time to place on record copy of roznama dated 07.01.2013 which indicates that one Pravin Warghat appeared for petitioner and sought time to file his written statement. The same person represent petitioner in the present case, the learned counsel for petitioner shall take instructions on this point.*

2. *Stand over to 22.07.2024.”*

Order dated 22-7-2024 :

“In continuation to orders dated 24/6/2024 and 8/7/2024, it appears that proceedings in Writ Petition No. 7479/2019 were initially commenced at Amravati, but later on were transferred to the Assistant Labour Commissioner, Nagpur.

2] *The contention of the learned Counsel for the petitioner is/was that the petitioner was never noticed of the proceedings at Nagpur and, therefore, did not get opportunity of hearing in the matter.*

3] *The learned A.G.P, as such, on previous date shown application dated 7/1/2013 filed by Sau. Seema Warghat, the then President of the petitioner – Society, seeking adjournment. The application has been addressed to the Assistant Labour Officer, Amravati.*

4] *The learned Counsel for the petitioner sought time to take instructions. The learned Counsel submits that copy of this application has been not served upon him. He submits that though the petitioner appeared in the proceedings before the Assistant Labour Commissioner, Amravati, she is unaware whether the proceedings pending before the Assistant Labour Commissioner, Amravati, was ever transferred to Nagpur.*

5] *The learned A.G.P. shall take instructions and place on record on affidavit as to whether the proceedings pending before the Assistant Labour Commissioner, Amravati, were transferred to the Assistant Labour Commissioner, Nagpur and the date on which the said proceedings were transferred and whether the petitioner was made aware of transfer of the said proceedings. The learned A.G.P. shall also serve copy of application on the learned Counsel for the petitioner.*

6] *Stand over to 5/8/2024.”*

4. In response to aforesaid orders, the learned Assistant Government Pleader has filed affidavit in reply on behalf of respondent no. 1 stating therein that initially, the application was moved by respondent nos. 2 to 5 before the personal advise and management system at Amravati, which is nothing but an Advisory Board. The affidavit further mentions that the Board suggested the respondents to approach the Assistant Labour Commissioner, Nagpur and accordingly, fresh proceedings were filed before the Assistant Labour Commissioner, Nagpur under Section 20 of the Minimum Wages Act, 1948. The affidavit then reveals that the petitioner was

not made aware of the proceedings filed before the Assistant Labour Commissioner, Nagpur.

5. Thus, what transpires is that respondent nos 2 to 5 have filed application before the Advisory Board, who suggested them to approach the Assistant Labour Commissioner, Nagpur. Accordingly, respondent nos. 2 to 5 approached the Assistant Labour Commissioner, Nagpur under Section 20 of the Minimum Wages Act, 1948. There appears no dispute that the Assistant Labour Commissioner, Nagpur has not issued notice to the petitioner and, therefore, the petitioner was not aware of the pendency of said proceedings.

6. In view of the above, the orders dated 11-12-2015 and 27-3-2017 passed by the Assistant Labour Commissioner, Nagpur in proceedings viz. Acl/mwa/claim/case section 20(2)/AHB/44/2013 and Acl/mwa/claim case section 20(2)/02/2015 suffer from non compliance of the principles of natural justice and thus, unsustainable.

7. Resultantly, writ petitions are allowed. Orders dated 11-12-2015 passed by the Assistant Labour Commissioner, Nagpur in proceedings viz. Acl/mwa/claim/case section 20(2)/AHB/44/2013 and dated 27-3-2017 in proceedings viz. Acl/mwa/claim case section 20(2)/02/2015 are quashed and set aside.

8. The proceedings are relegated back and restored on the file of the Assistant Labour Commissioner, Nagpur to decide the same afresh in accordance with law.

9. The parties shall appear before the Assistant Labour Commissioner, Nagpur on 26-8-2024.
10. All questions are kept open.
11. Writ petitions are accordingly disposed of.

(Anil L. Pansare, J.)

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