

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION No.8503 OF 2025

Vishal Intelligence Securities Services
At. Sh No, Sureshdada Jain Complex,
In front of Kashinath Lodge, Ajanta Road,
MIDC Area, Jalgaon, Through its Proprietor
Shri Dinkar s/o Namdeo Chaudhari
Age-63 years, Occupation- Business
R/o-C/o Shri Samrath Food Products,
M-193, MIDC Area Jalgaon
Tq. & Dist- Jalgaon – 425003.

..Petitioner

VERSUS

1. Regional Labour Commissioner, (Central)
Authority under Minimum Wages Act, 1948
CGO Complex, First Floor, Block C,
Seminary Hills, Nagpur.
2. All India Scheduled Caste &
Scheduled Tribes Railway Employees
Association, Bhusawal.
Through its Divisional Secretary,
Railway quarter No. C-59 DRM office
road, Bhusawal Dist. Jalgaon.,
3. The Sr. Superintendent,
Railway Mail Services,
Central Railway, Bhusawal,
Dist. Jalgaon.

..Respondents

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Advocate for the Petitioner : Mr. Pramod S. Gaikwad
Advocate for Respondent Nos.1 & 3 : Mr. R.R. Bangar

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : JULY 15, 2025

PRONOUNCED ON : AUGUST 01, 2025

JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of parties.

2. Present petition takes exception to order dated 07.04.2025/08.04.2025 passed by Regional Labour Commissioner (Central), Nagpur and Authority under Section 20 (1) of Minimum Wages Act, 1948 ('The Act' for short), by which petitioner is directed to deposit within 45 days a sum of Rs.38,08,582/- towards less payment along with compensation in favour of Assistant Labour Commissioner (Central), Nagpur under intimation to the applicant with further stipulation that non-compliance with directions shall entail proceeding in accordance with Section 20 (5)(b) of the Act.

3. The petitioner is a contractor and engaged in providing security, care taking, housekeeping and labour services. Original respondent no.2/Superintendent, Railway Mail Services, Bhusawal floated tender for supply of skilled, semi-skilled and unskilled outsourced persons to work in different mail office on contract basis. The petitioner was a successful bidder and he was issued work order. It is contention of petitioner that the work order was issued belatedly after 276 days of submission of bid. Later on, Central Government revised minimum rates of wages for labours vide circular dated 20.04.2017. On 08.06.2017, petitioner started the work under tender and supplied manpower. The petitioner requested respondent to pay

difference of wages as applicable at the time of floating tender and enhanced rate vide circular dated 20.04.2017. To which, respondent replied that para 48 of contract would take care of situation and it is for the service provider to absorb the duties. On 26.04.2018, the respondent further extended contract for the period of one year on the same rate. According to petitioner, his request regarding payment of arrears of amount was under consideration of Chief Post Master General, Maharashtra Circle. However, it was rejected. Hence, he filed Writ Petition No.12644 of 2021 before this Court, which is pending.

4. While aforesaid writ petition was pending, respondent no.3/Association approached respondent no.1/Authority for release of difference of wages as per the Act. The petitioner was served with notice of hearing dated 17.03.2025. The petitioner submitted his representation to respondent no.1 to grant opportunity to contest the claim. However on 08.04.2025, the Authority has passed the impugned order.

5. Learned advocate appearing for petitioner submits that the Respondent/Authority was expected to act judiciously and reasonably. However, respondent no.1 passed orders hastily without giving a fair opportunity of hearing to petitioner. According to him, petitioner had entered into contract with respondent no.3 and undertook work as per approved rates under tender. Subsequently,

the enhanced rates of minimum wages were introduced by Central Government. Therefore, it is the responsibility of principle employer to approve and release bills submitted by petitioner as per modified minimum wages. The petitioner has already filed Writ Petition No.12644 of 2021, which is pending. Learned advocate appearing for petitioner further submits that petitioner has also paid minimum wages as per contractual obligation at prevailing rates at the time of acceptance of contract. Therefore, any further liability owing to enhancement in the rates of minimum wages ought to have been borne by principle employer. Therefore, he would urge that impugned order be quashed and set aside.

6. Having considered submissions advanced, it can be observed that there is no dispute that members of respondent no.2/Union were employed by petitioner in pursuance to the contract of respondent no.3 and their services were availed by him. The petitioner is not disputing his liability to pay minimum wages and non-payment of dues of Rs.37,53,582/- towards 55 contract workers for the year 2017 to 2019. All workers were employed as security guards which is the work falling under scheduled employment under sub-section (1) of Section 22F of the Act. Thus, respondent no.1 is a competent authority under Section 20 (1) of the Act to deal with claim application for non-payment of minimum wages under Minimum Wages Act, 1948.

7. The record indicates that respondent no.1/Authority had issued notices to petitioner on 04.07.2023, 11.08.2023 and 17.03.2025 and despite of service of notice, he failed to cause appearance and submit reply. On other hand, respondent no.2 appeared before the Authority and submitted that they have paid all the bills for the period from 01.04.2017 to 31.03.2019 to the contractor as per the terms of contract, except bill of Rs.4,21,794/- for period from 26.03.2019 to 31.03.2019. Even the cheque of said amount is ready which is yet to be collected by contractor. It was pointed out that the petitioner has filed Writ Petition No.12644 of 2021 before this Court against rejection of supplementary bills towards enhanced minimum wages and same is pending. Respondent No.1/Authority found that total amount of Rs.37,53,582/- is due and payable towards difference of minimum wages towards petitioner/contractor. Eventually, authority passed the impugned order dated 07.04.2025 directing petitioner to release the amount along with compensation @ Rs.1,000/- per day.

8. Although, learned advocate appearing for petitioner tried to impress upon this Court that liability to release minimum wages would be upon principle employer, such an issue is not subject matter of this writ petition. Already petitioner has filed Writ Petition No.12644 of 2021 before this Court, wherein the dispute between respondent no.3/Mail Services and petitioner as to liability towards

difference of minimum wages at the enhanced rate is subject matter of challenge. The petitioner cannot deny his liability, being the employer, to pay minimum wages as per rates prescribed under notification issued by Central Government. The petitioner may prosecute his remedies against principle employer/Railway Mail Services as permissible under law. However, he cannot withhold the payment of minimum wages to employees particularly when there is no dispute regarding their entitlement.

9. The impugned order appears to have been passed after following due procedure of law. If petitioner has failed to caused appearance in pursuance of notice and particularly when he has no defence to avoid liability under Minimum Wages Act, 1948, this Court do not find any reason to entertain the writ petition. In result, writ petition stands dismissed.

10. Rule is discharged.

(S.G. CHAPALGAONKAR, J.)