

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9189 OF 2025

M/s. Active Engineers, Chennai

.. Petitioner

Versus

Mohammad Hasrat Mohammad Bohare and Ors. .. Respondents

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- Mr. Iqbal Siddiqui a/w. Mr. Deepak Jamsandekar and Ms. Smita Sonawane, Advocates for Petitioner.
 - Mr. Kuldeep Singh, Advocate for Respondent Nos.1 and 2.
 - Mr. Rishi Ashok, Advocate i/by B. K. Ashok for Respondent No.3.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 22, 2025

P.C.:

1. Heard Mr. Siddiqui, learned Advocate for Petitioner; Mr. Singh, learned Advocate for Respondent Nos.1 and 2 and Mr. Ashok, learned Advocate for Respondent No.3.

2. Mr. Ashok, learned Advocate has entered appearance today for Respondent No.3 – Union of India through the General Manager, Central Railway. He would submit that he was given instructions to appear only yesterday and received copy of brief.

3. Mr. Singh, learned Advocate appears on behalf of private Respondent Nos.1 and 2 who are legal heirs and parents of the deceased. This is a Petition filed under Article 227 read with Article 226 of the Constitution of India.

4. After hearing Mr. Siddiqui, learned Advocate for Petitioner

on previous date i.e. 08.07.2025, following order was passed:-

- “1. Heard Mr. Siddiqui, learned Advocate for Petitioner.*
- 2. Petitioner is aggrieved by the impugned order dated 20.02.2025 passed by the Commissioner for Employees’ Compensation, 10th Labour Court, Mumbai in respect of grant of compensation to the private Respondents before me. On Prima facie perusal of the said order it is seen that order has been passed ex-parte. However in paragraph No.5 of the said order it is stated that the Petitioner had remained absent though summons was served and therefore Application was proceeded ex-parte. No further details are stated with respect to service on the Petitioner.*
- 3. Another moot point advanced by the learned Advocate for the Petitioner is that Petitioner – company is known by the nomenclature M/s. Active Engineers Chennai however the cause title in the impugned order notes the name of the Petitioner – Company as M/s. Active Engineering Company, Labour Agency Bhusawal, Maharashtra. He would submit on instructions that Petitioner – Company was not even aware of the proceedings.*
- 4. Prima facie it appears that Petitioner was a contractor and private Respondents were his employees but the proceedings before the Labour Court, Mumbai were contested by the Union of India / Central Railway. This appears from the contentions of the Union of India / Central Railway noted in paragraph Nos.3 and 4 of the impugned order. However at several places in the impugned order it appears that name of the Petitioner – Company is incorrectly mentioned as M/s. Active Engineering Limited. Insofar as the address at Bhusawal is concerned I may not agree with the learned Advocate for the Petitioner because the Contractor though situated in Chennai was undertaking maintenance of the BCM & FRM machines deployed over Central Railways at Kharbao village, Taluka Bhiwandi, District Thane, Maharashtra. Prima facie the address of the Petitioner in the order as described being a Labour Agency at Bhusawal, Maharashtra appears to be incorrect on the face of record.*
- 5. Learned Advocate for Petitioner would persuade the Court to consider the impugned order foisting liability jointly and severally on Union of India / Central Railway and the petitioner. He would submit that he is aggrieved with the directions contained in operative clause 3 on the premise that payment of compensation is directed to be paid by the Petitioner jointly and severally with the Union of India / Central Railway by the Authority while passing the order dated 20.02.2025 without hearing the Petitioner.*
- 6. In view of the above submissions and after reading the impugned order dated 20.02.2025 an arguable case is made out by learned Advocate for Petitioner for issuance of notice and stay of the impugned order qua the Petitioner only. Hence, impugned order dated 20.02.2025 is stayed to that extent. No steps shall be taken against the Petitioner for recovery of any amount until the present*

petition is disposed. Regarding liability of Union of India / Central Railway, the impugned order is not stayed by this Court.

7. In view of the controversy which is involved and since it relates to compensation payable to the dependents of the deceased workman, the present Writ Petition shall be heard peremptorily by the Court on the next adjourned date which shall be noted by the Respondents. Hence issue notice to the Respondents made returnable after two weeks.

8. In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. It is seen that the dependents of deceased workman are his father and mother who are Applicants before the Labour Court. They are residing in Jalgaon.

10. Respondent / dependents of deceased workman are directed to appear on VC only if so required considering the fact that they have lost their son in the fatal accident. They need not come all the way to Bombay to appear or appoint any lawyer for the present as this Court has taken cognizance of the above fact and shall consider appointing an Advocate through the legal aid to represent and espouse their cause if they so require after hearing the Union of India / Central Railway on the next adjourned date. Advocate for Petitioner shall inform the private Respondents about the passing of this order and give them the link for appearing on VC on the next adjourned date.

*11. Stand over to **22nd July, 2025 (F.O.B. at 11:30 am).**"*

5. Today on behalf of Union of India – Central Railway Mr. Rishi Ashok has appeared before the Court. He is directed by Court to place submissions of Respondent No.3 on Affidavit within a period of one week from today. Subject to what Respondent No.3 has to state, this Court shall pass appropriate orders in the present Writ Petition on the next adjourned date which may be noted by the parties.

6. If Respondent No.3 resiles from filing any Affidavit-in-Reply, this Court shall not grant them any further extension and decide the present Writ Petition on its own merits in accordance with law.

7. In the meanwhile, ad-interim relief granted earlier, if any, to continue.

8. List the Writ Petition on **31st July, 2025**. To be placed under the caption '**First on Board**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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