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

WRIT PETITION NO.4437 OF 2024

SMS Integrated Facilities Services Pvt. Ltd. ...Petitioner

Versus

Union of India & Ors. ...Respondents

WITH

WRIT PETITION NO.387 OF 2025

HDFC Bank Ltd. ...Petitioner

Versus

Union of India & Ors. ...Respondents

Mr. S.C. Naidu, Ms. Divya Yajurvedi, Mr. Pradeep Kumar and Mr. Abhishek Ingale i/b. C.R. Naidu and Co. for the Petitioner in WP No.4437 of 2024 and for Respondent No.4 in WP No.387 of 2025.

Mr. Pramod Kathane with Mr. Amol A. Ghurde and Ms. Muzayyana B. Shaikh for Respondent No.3.

Mr. J.P. Cama, Senior Advocate with Mr. Satyadev R Pandey for Respondent No.4 in WP No.4437 of 2024 and for Petitioner in WP No.387 of 2025.

CORAM : R.I. CHAGLA J.
DATE : 11TH FEBRUARY, 2025.

ORDER :

1. By these Writ Petitions, the impugned Order dated 1st May, 2024 / 2nd May, 2024 passed by Regional Labour Commissioner (Central) Mumbai is sought to be quashed and set aside.

2. The primary ground of challenge to the impugned Order is that the Respondent No.2 – Regional Labour Commissioner (Central) has failed to consider the submissions of the Petitioner with regard to the limitation as provided under Section 20(2) of the Minimum Wages Act, 1948. This provides that a claim for recovery of minimum wages cannot be admitted without sufficient cause for not making the application within such period being made out. Further, the submission with regard to lack of jurisdiction of the Regional Labour Commissioner (Central) entertaining the claim of the members of the Applicant – Union where the Petitioner is stated to be an establishment of State Government and for which reliance had been placed on Section 20(1) of the Minimum Wages Act, 1948.

3. Having considered the primary ground of challenge raised by the Petitioner, I find much merit in this challenge. From bare perusal of the impugned Order, though the aforementioned submissions on behalf of the Petitioners have been recorded in paragraphs 16 and 17 of the impugned Order these submissions have not been considered in the observations of Respondent No.2 whilst arriving at the impugned Order.

4. Accordingly, the impugned Order requires to be quashed

and set aside and matter remanded back to the Respondent No.2 - Regional Labour Commissioner (Central) for de-novo hearing and consideration of the submissions of the Petitioner and passing of fresh order.

5. Hence, the following Order:-

(i) The impugned Order dated 1st May, 2024 / 2nd May, 2024 is quashed and set aside and matter remanded back to the Respondent No.2 – The Regional Labour Commissioner (Central) for de-novo hearing and passing of fresh Order by considering the submissions of the Petitioners including on jurisdiction and limitation and which shall form part of the fresh Order. Respondent No.2 shall endeavour to pass the fresh Order within a period of six weeks from the date of this Order.

(ii) The rights and contentions of the parties are expressly kept open. They are at liberty to file additional pleadings before the Respondent No.2 – the Regional Labour Commissioner (Central), Mumbai.

(iii) The Writ Petitions are accordingly disposed of. There shall be no order as to cost.

[R.I. CHAGLA J.]