

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4013 OF 2020

RASHTRIYA SHRAMIK AGHADI.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Shri S.P.Shah, Advocate for the petitioner.
Shri D.R.Kale, Government Pleader for Respondent No.1.
Shri P.P.Mandlik, Advocate for Respondent Nos.2 and 3.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th May, 2020

Per Court:

- 1 This matter is taken up through Video Conferencing by Vidyo App during the nationwide lock-down on account of COVID-19 pandemic.
- 2 By this petition, the petitioner Union has made a grievance that after the lock-down has been effected and though the members of the Petitioner Union, are willing to offer their services as security guards and health workers with Shri Tuljabhavani Mandir Sansthan, Tuljapur, they are precluded from performing their duties on account of the clamping of lock-down for containment of COVID-19 pandemic. Though certain proceedings are pending under the Industrial Disputes Act, 1947 and the Contract Labour (Regulation and Abolition) Act, 1970 before the Assistant

Commissioner of Labour, Latur, further hearings in the matter are not possible due to the clamping of the lock-down.

3 The learned advocate for the petitioner has uploaded a ready reference chart to indicate the gross monthly wages of the employees till January-February, 2020 and the payments made by the contractors to the said employees for the months of March and April, 2020. Considering the submissions of the petitioner, it appears that the payments made by the contractors for the month of March, 2020 are slightly lesser than the gross salary and for the month of April, 2020 a paltry amount is paid.

4 The learned advocate appearing on behalf of respondent Nos.2 and 3 submits that the District Collector, Osmanabad is now the President of the Trust and the Tahasildar is the Manager-Administration. These two authorities are administering the Trust.

5 He further submits that considering the pendency of the proceedings before the Assistant Labour Commissioner, Latur, this petition need not be entertained and in the event, this Court is inclined to entertain the same, the maintainability issue be left open.

6 This Court cannot turn a Nelson's eye to an extraordinary situation on account of Corona virus/ COVID-19 pandemic. Able bodied persons, who are willing and desirous to offer their services in deference to their deployment as contract labourers in the security and house keeping sector of the Trust, are unable to work since the temples and

places of worships in the entire nation have been closed for securing the containment of COVID-19 pandemic. Even the principal employer is unable to allot the work to such employees in such situation. *Prima facie*, I feel that the principle of “no work- no wages” cannot be made applicable in such extraordinary circumstances. The Court cannot be insensitive to the plight of such workers, which has unfortunately befallen them on account of the Covid-19 pandemic.

7 The learned advocate representing the administration of the Temple Trust submits that he cannot comment upon the chart just now uploaded by the learned advocate for the petitioner since he has not taken instructions as regards the payment made to the contractors for the months of April and May, 2020, keeping in view that this petition is filed on 22.02.2020 and the COVID-19 lock-down has occurred on 22.03.2020.

8 In view of the above, the petitioner is directed to add the two contractors as respondent Nos.4 and 5. Liberty is granted to serve the contractors through all legally permissible and possible modes of service. This petition shall stand over to 09.06.2020 or any date thereafter, when the Court conducts hearing of cases.

9 In the meanwhile, the District Collector, Osmanabad, in his capacity as President of Respondent No.2 Trust/ Principal Employer, shall ensure that full wages, save and except food allowance and conveyance allowance (only with regard to the employees who are not required to

report for duties), shall be disbursed by the contractors to the concerned employees for the months of March, April and May, 2020. The principle of “no work- no wages” shall not be invoked until further orders in this petition. Needless to state, such payment of wages would be subject to the result of this petition or the proceedings before the Assistant Commissioner of Labour, Latur, which would progress only if the lock-down is completely lifted and free movement of citizens would be permitted.

kps

(RAVINDRA V. GHUGE, J.)