

Principle Of “No Work- No Wages” Not Applicable Amidst COVID-19 Pandemic:
Bombay High Court

written by Gaurav Singh Gaur | May 18, 2020



The Aurangabad Bench of the Hon'ble High Court of Judicature at Bombay vide order dated 12th May 2020 in the case of Rashtriya Shramik Aghadi v. The State of Maharashtra and others[1] observed that the principle of “no work-no wages” cannot be made applicable in the present extraordinary situation of the Coronavirus/COVID-19 pandemic.

NO WORK NO WAGES Code Struck Down Amidst COVID by Bombay HC

The Hon'ble Justice Ravindra V. Ghuge was hearing this matter through video conferencing by video app during the nationwide lock-down on account of the COVID-19 pandemic. This writ petition was filed by the petitioner union raising their grievance that the members of the Union were precluded from performing their duties and services like security guards and health workers with Respondent No.2, Shri Tuljabhavani Mandir Sansthan, Tuljapur, amidst the ongoing lockdown 3.0.

It was further noted by the Hon'ble Bench that certain proceedings under the Industrial Disputes Act, 1947 and the Contract Labour (Regulation and Abolition) Act, 1970 were still pending before the Assistant Commissioner of Labour, Latur and that further hearings on the matter were not possible with the lockdown orders in force.

Shri S. P. Shah, the learned Advocate for the petitioner while assisting the Hon'ble Bench had uploaded a chart to indicate the gross monthly wages of the employees. The learned counsel submitted that the payments made to the employees for the month of March 2020 by the contractors, were slightly lesser in comparison to the gross salary and that the payment for the month of April 2020 was a paltry sum.

Shri P.P. Mandlik, the learned advocate appearing on behalf of respondents no. 2 and 3 submitted that the district collector of Osmanabad is the President of the Trust and the Tahsildar is the manager of administration and that the Trust is managed by the above-mentioned authorities. In response to the chart submitted by the petitioner's advocate, the learned counsel submitted that he could not comment upon the same since he had not received any instructions with regard to the payment to be made to the contractors. He further submitted that in view of the pendency of the proceedings before the Assistant Labour Commissioner, Latur, the present petition could not be entertained. The learned counsel further submitted that in the event, that

the court is inclined to entertain the same, the issue of maintainability of this petition should be left open.

After hearing both sides, the Hon'ble Bench observed in paragraph no.6 of its order dated 12-05-2020 that:

"This Court cannot turn a Nelson's eye to an extraordinary situation on account of Coronavirus/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 society 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."

The Hon'ble Bench also directed the petitioner to add the two contractors as respondents no. 4 and 5 in the petition and further granted liberty to serve them through all legally permissible and possible modes of service.

The case is further posted to 09th June 2020 for hearing with direction to the District Collector, Osmanabad, in his capacity as President of respondent no. 2 Trust (the Principal employer) to 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 month of March, April and May 2020.

In light of the aforesaid observations, Hon'ble Justice Ravindra V. Ghuge held as hereunder:

"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."

[1] Writ Petition No. 4013 of 2020.

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