

ITEM NO.13

COURT NO.9

SECTION III

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CONMT.PET.(C) No.1264/2018 in C.A. No.4929/2017

KACHARA VAHATUK SHARAMIK SANGH

Petitioner(s)

VERSUS

AJOY MEHTA & ORS.

Respondent(s)

(IA No. 97109/2018 - EXEMPTION FROM FILING O.T.  
IA No. 187277/2019 - PERMISSION TO PLACE ON RECORD SUBSEQUENT  
FACTS)

WITH

MA 1807/2018 in C.A. No. 4929/2017 (III)  
(FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 81752/2018  
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA  
136919/2018  
FOR EXEMPTION FROM FILING O.T. ON IA 136922/2018  
IA No. 81752/2018 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 136922/2018 - EXEMPTION FROM FILING O.T.  
IA No. 136919/2018 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

Date : 05-03-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE VIKRAM NATH  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Dhruv Mehta, Sr. Adv.  
Mr. Ashish Wad, Adv.  
Mrs. Tamali Wad, Adv.  
Ms. Akriti Arya, Adv.  
M/S. J.S. Wad And Co., AOR

Mr. Kapil Sibal, Sr. Adv.  
Ms. Sumedha Ray Sarkar, Adv.  
Ms. Rupali Samuel, Adv.  
Ms. Rohini Thyagarajan, Adv.  
Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Rohini Thyagarajan, Adv.

Ms. Rajkumari Divyasana, Adv.

For Respondent(s) Mr. Pukhrambam Ramesh Kumar, AOR

Mr. Dhruv Mehta, Sr. Adv.

Mr. Ashish Wad, Adv.

Mrs. Tamali Wad, Adv.

Ms. Akriti Arya, Adv.

M/S. J S Wad And Co, AOR

UPON hearing the counsel the Court made the following  
O R D E R

On 12.12.2023, this Court has passed the following order:

*“Mr. Mukul Rohatgi, learned senior counsel appearing for the respondents, has prayed for one last opportunity to place before the Court final settlement/affidavit of full compliance within eight weeks.*

*As prayed, list the matter on 05.03.2024.*

*It is made clear that no further time will be granted for the purpose of compliance and if by the next date fixed, an affidavit of full compliance is not filed, the Court will summon the erring officers for framing of charge.*

*In the office report dated 16.11.2021, there is a reference to a report dated 13.12.2017 submitted by the Investigating Officer of the Industrial Court, Maharashtra, received by the Registry on 10.05.2021. Let a copy of the said report be provided to the learned counsel appearing for the parties within three weeks, so that parties may file their response, if any, to the said report in the meantime.”*

An affidavit of compliance is being filed duly sworn in by the Chief Engineer (SWM), Brihanmumbai Municipal Corporation (BMC). We have gone through the contents of the affidavit as also the documents attached to it and we are *prima facie* of the view that the award of the Tribunal as affirmed by the High Court and as modified by this Court *vide* order dated 07.04.2017 has been partially complied with and the major portion of the direction has not been complied with so far. The report of the Industrial Investigating Officer as required by this Court in its order dated 07.04.2017 contained in paragraph (7) thereof was submitted long back in December 2017 but despite that apparently no step has been taken by the Corporation or its officers for almost 07 years by acting upon the same. Now that the contempt proceedings have been initiated in which notices were issued and thereafter couple of orders had been passed that the Corporation appears to have woken up.

Mr. Dhruv Mehta, learned Senior Counsel appearing for the officers of the Corporation referring to the affidavit of compliance and in particular, the order dated 07.04.2017 submitted that this Court had modified the award as also the judgment of the High Court of Judicature at Bombay by not giving any permanency to the workers who were still serving whether verified or not verified. According to him, the only permanency status given was as per paragraph (5) of the order dated 07.04.2017, *i.e.* the employees who had died in service or had been permanently

incapacitated. The above submission is rejected as this Court only modified the date of payment of arrears. Instead of from the date of completion of 240 days working to the date of the award.

Further, according to Mr. Dhruv Mehta, learned Senior Counsel insofar as payment is concerned from the date of the award as directed by this Court, the break up has been given with respect to the 1600 employees in the table which is a part of paragraph (1) of the affidavit. According to the said table, 1497 workers have been paid the arrears. With respect to 41 workers, the calculation and payment is in process and for the rest, reasons has been given as to why arrears could not be paid to them or that they are not entitled to any arrears. Details of the death claim has also been given. We also find the reasons for the 57 workers whose arrears has not been processed mentioned in the table. Insofar as 1100 workers are concerned, it is now that camps have been held in the end of February *i.e.* 27<sup>th</sup> , 28<sup>th</sup> , 29<sup>th</sup> and 1<sup>st</sup> of March, 2024 and these workers have been called to submit their documents which exercise appears to be still in progress. However, no payment has been made to the workers who were although identified and verified from the list or 1100 workers. The fact regarding the holding of camp, etc. is mentioned in paragraph No.(16) of the affidavit. It is admitted position that no permanency has been given to any of the employees out of 2700 whether they fall in the category of 1600 or 1100.

We, thus, find that there has been substantial non-compliance on the part of the officers of the Corporation. We, accordingly,

direct the personal appearance of the Municipal Commissioner of Brihanmumbai Municipal Corporation (BMC) as also the Deputy Commissioner (SWM) and Chief Engineer (SWM) on 19.03.2024. The Municipal Commissioner would be at liberty to file up to date details of the the compliance effected.

List on 19.03.2024.

(VIJAY KUMAR)  
COURT MASTER (SH)

(POOJA SHARMA)  
COURT MASTER (NSH)