



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

**WRIT PETITION NO. 5486 OF 2016**

Valsad District Co-operative Milk  
Producers Union Limited,  
Vasudhara Dairy, Plot No. U-25,  
MIDC, Hingna Road, Nagpur  
through its Chief Executive Officer

**.....PETITIONER**

**...V E R S U S...**

1. Nagpur and Wardha District Mathadi  
And Unprotected Labour Board, Nagpur,  
Bhonsla Chambers, Civil Lines,  
Nagpur-440001 through its Secretary
2. Specified Officer, Nagpur and  
Wardha District Mathadi And  
Unprotected Labour Board, Nagpur,  
Bhonsla Chambers, Civil Lines,  
Nagpur-440001
3. Surendrasingh s/o Madhursingh Parihar,  
aged about 34 years,
4. Radheshyam Purushottam Parate,  
Aged about 36 years,
5. Purushottam Laxman Tiwade,  
Aged about 33 years,
6. Tathagan Shrawan Bansod,  
Aged about 35 years,
7. Rahul Chandrabhan Nagpure,  
Aged about 30 years,
8. Rajendra Katare, Aged about 35 yrs

8(i) Surajlal s/o Kanuji Katare,  
Aged about 59 yrs, Occ. Nil.  
R/o. Shankar Pipriya, Tah. Warashivni,  
Dist Balaghat, Madhya Pradesh

(ii) Nilabai w/o Surajlal Katare,  
Aged about 56 yrs, Occ. Nil.  
R/o. Shankar Pipriya, Tah. Warashivni,  
Dist. Balaghat, Madhya Pradesh

9. Moreshwar Devraoji Gawande,  
Aged about 45 yrs,

10. Prashant Govind Kamble,  
Aged about 36 yrs,

11. Rahul Kamble, Aged about 46 yrs,

12. Ranjit Khadse,  
Aged about 35 yrs,  
Respondents 3 to 12 all residents of  
C/o. Radheshyam Purushottam Parate,  
at Vaibhav Nagar, Wanadongri,  
Taluka Hingna, Dist. Nagpur

.....**RESPONDENTS**

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Mr. R.B. Puranik, Senior Advocate a/b Mr. Mihir Puranik, Advocate for  
petitioner.

Mr. N.S. Rao, AGP for respondent No 1/State.

Mr. Ranjan Deshpande, Advocate for respondent Nos. 3,4,6,7,9,10.  
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**CORAM:- ANIL S. KILOR, &**  
**RAJNISH R. VYAS, JJ.**

**DATED : 07.10.2025**

**JUDGMENT** (Per : Rajnish R. Vyas)

**Heard** finally, with the consent of the parties.

2. A short issue which arises in this petition pertains to interpretation of Section 13 of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 (for sake of brevity, referred to as “the Act of 1969”). The question is whether under Section 13, a Board or such other officer as mentioned in Section 13 has power to review its order?.

3. In this background, we have heard learned Senior Counsel Mr. R.B. Puranik, assisted by Mr. Mihir Puranik for petitioners. We have also heard Mr. R.N. Deshpande, learned counsel for respondent Nos. 3 to 4, 6, 7 and 9 to 12 whereas Mr. N.S. Rao, learned AGP for respondent No. 1/State.

4. According to learned Senior Counsel Mr. Puranik, manner in which impugned orders are passed, would clearly reveal that though powers were not vested in the authority to review the order, same were exercised, which has resulted into miscarriage of Justice.

5. In order to cut short the controversy, it is necessary to mention here that the petitioner is a society registered under the provisions of Gujrat Co-operative Societies Act and registered employer,

whereas Respondent Nos. 3 to 12 were registered Mathadi workers under the provisions of the Act of 1969.

6. Some Mathadi workers including the respondent/worker suddenly stopped the manufacturing process, in which respondent Nos. 3 to 12 took leading part. The said illegal act was brought to the notice of Mathadi Board by way of protest by petitioner, with a request to take appropriate action against them.

7. On 11-06-2008, Assistant Commissioner of Labour/Chairman of the Mathadi Board informed the petitioner that except 12 workers, all other workers had given assurance that duties would be properly performed and therefore, except the 12 workers, other workers be taken on the work.

8. The petitioner complied with the said order but on 3-7-2008, again, the Assistant Commissioner of Labour/Chairman of the Board informed the petitioner that in earlier meeting, the petitioner refused to give work to the said 12 workers and now the workers be given regular work, fact of which be informed to the Board.

9. The petitioner, thereafter, did not give aforesaid 12 workers any work. Thus vide communication dated 24-09-2008, it was informed to the respondent/workers by Inspector that in view of Section 13 of the Act of 1969, it would not have any jurisdiction to pass any order and since workers were not in employment, provisions of Section 13 of the Act cannot be invoked.

10. Being aggrieved, respondent/workers preferred Writ Petition No. 258/2008 before this Court in which a prayer was made to issue direction to the respondent therein to reinstate the workers in the services of the present petitioner. It was also prayed that Mathadi Board be directed to consider the claim of workers. The aforesaid writ petition came to be listed before this Court on 20-04-2010 on which date, following order was passed:

*“Allowed to withdraw with liberty to resort to appropriate remedy available in Industrial Law”.*

Thereafter, no proceedings were preferred before the Industrial Court for redressal of grievance, by the workers.

11. Mr. Puranik contended that although respondent No. 1 Board had earlier rejected prayer of respondent workers to file proceedings under Section 13 of the Act of 1969, but surprisingly, again, an

application dated 11-08-2010 was preferred by the respondent workers to the Board and request was made to set aside oral termination order dated 10-06-2008/09-06-2008. Consequent relief of reinstatement, continuity of services and consequential benefits was also made.

12. Accordingly, respondent Board initiated proceeding under section 13 of the Act of 1969, in view of application dated 11- 8-2010, which came to be registered as application no. MUPLB/1/2011 before the officers specified appointed under Section 13 of the Act of 1969. A prayer was made for direction to the petitioners/non-applicants therein to remit the wages and levy amounting to Rs. 18,88,964/-, as provided (under Sub Section 2(d-1) of Section 3 of the Act.

13. The petitioner herein appeared in those proceedings and objected to the jurisdiction by contending that neither the Act nor the scheme framed thereunder give any power, authority or jurisdiction to any of the officers of the Board to issue any direction to reinstate any registered Mathadi Worker with payment of back wages. Considering the objection taken on 14-02-2012, application – proceedings initiated under Section 13 of the Act were rejected.

14. The said order was challenged by preferring Writ Petition No. 6109/2012 before this Court. A prayer was also made for quashing of order dated 14-02-2012 and order dated 05-07-2012 (by which representation submitted by the respondent workers, was rejected). On 16-04-2014, Writ Petition No. 6109/2012 was disposed of by way of following order:

“This court had passed an order on 18 February, 2014, as under;

*"Shri Marpakwar, the learned counsel appearing for the petitioners, submits that keeping aside the dispute of Mathadi workers with the respondent Nos 2 and 3, the petitioners are prepared to accept the employment under any other registered employer, and according to him, the Mathadi Board is under obligation to provide the work to the petitioners.*

*Shri Pillai, the learned counsel appearing for the respondent-Mathadi Board seeks time to take instructions on this issue.*

*Hence, S.O to 25-2-2014.*

*The question of entitlement of the petitioners to wages for the period till this date, shall be considered subsequently”*

Thereafter, on 25th February, 2014, the following order was passed.

*"Shri Pillai, the learned counsel appearing for the respondent no.1-Board, submits that he requires some more time to take instructions in the matter as to whether Mathadi workers can be provided work anywhere else. Already the matter was adjourned for taking instructions on last occasion also. Hence, by way of last chance two weeks time is granted. If the Instructions are not received the respondent no 1-Board to pay the costs of Rs 2000 to the High Court Legal Services Sub Committee. Nagpur, for wasting the time of the Court"*

*Shri Pillai, the learned counsel appearing for the Mathadi Board submits that all the issues between the board and the employees shall be referred to a Board under Section 6 of the Act for adjudication.*

*The order passed under Section 13 of the Maharashtra Mathadi, Hamal and Othr Manual Workers (Regulation of Employment and Welfare) Act. 1969. does not call for any interference.*

*The dispute before such Board shall be between the Board and its employees only. Shri Pillai, the learned counsel submits that such a dispute shall be decided within a period of three months. If the decision goes against the petitioners, it shall be open for them to challenge it in accordance with law.*

*Writ petition stands disposed of.”*

Despite aforementioned order, again petitioner received a communication from respondent Board dated 20- 9-2015 by which petitioner was called upon to attend meeting dated 8-10-2015, which was attended by the representative of the petitioner.

15. According to the petitioner, in the said meeting letter/ representation submitted by the respondent workers in the month of March 2015, was handed over to the petitioner. The petitioner from the said letter came to know that Board has passed resolution dated 20-08-2014, directing holding of de novo enquiry under section 13 of the Act of 1969 and taking of fresh decision. A request was made by the petitioner to supplying copy of resolution dated 20- 8-2014.



16. In view of resolution dated 20-08-2014 proceedings under section 13 of the Act of 1969, bearing proceeding number 16-2015(original proceeding number 1-2011) were thereafter held on 10- 6-2016. The petitioner submitted its letter to the specified officer and contented that resolution dated 20-8-2014, which resulted into initiation of proceeding under section 13 of the Act, is in derogation of order dated 16-4-2014 passed in Writ petition no. 6109/2012.

17. Proceeding initiated under section 13 of Act of 1969, after hearing on 10/6/2016, were closed and on 12-7-2016 specified officer of the respondent Board passed an order holding the petitioner liable to pay amount of ₹14,53,052 towards wages(for the period, July 2008, till January 2011 of 12 workers) together with 30% levy amount to ₹435912 and further surcharge of 10% and interest at the rate of 10%.

18. In the aforesaid background, the petitioner has contended that the proceeding initiated under Section 13 were not at all permissible in the eyes of law, having once rejected.

19. Per contra, Mr Ranjan Deshpande, learned Counsel for respondent workers and learned AGP Mr Rao for respondent/State supported the order. It is the contention of Mr Deshpande that order cannot be faulted with as respondent workers were denied wages and their termination was illegal. Learned AGP has contended that question of entitlement of the workers to wages for the period was directed to be considered subsequently, which is clear from order dated 16th April 2014 passed in Writ petition No. 6109 / 2012.

20. In aforesaid background, if the issue involved is looked into, it would be crystal clear that the respondent board in its order dated 24 September 2008 has categorically observed that it cannot take action against the employer under section 13 of the Act of 1969, as the workers were not in service at the relevant time. It was further observed in the order that since by refusing to give employment to the respondent workers, the petitioner had raised a dispute, powers under section 13 of the Act of 1969 cannot be exercised.

21. This order was challenged in writ petition No. 258/2008 by the respondent workers and on 20-4-2010 petition was allowed to be

withdrawn with liberty to resort to appropriate remedy available in Industrial Law. Admittedly, thereafter respondent workers did not take any recourse to the remedies provided, and instead again, an application, praying for quashing of termination order dated 11-8-2010 along with other consequent relief, was preferred which was registered as MUPLB 1-2011 before the officer specified appointed under section 13 of the Act of 1969.

22. The said proceedings, were also decided on 14-2-2012 by the officer of the Board in which it was categorically observed that respondent workers application for recovery of an amount of ₹18,88,864/- along with 10% surcharge is rejected.

23. The workers took an exception to said order in Writ petition No. 6109 / 2012 which also did not yield any fruit and on 16th April 2014, this Court has disposed of the petition clearly observing that the order passed under section 13 of Act of 1969, does not call for any interference.

24. At this stage, it is necessary to note that though in an order dated 18th February 2014, it was observed that the question of

entitlement of the workers to wages for the particular period shall be considered subsequently, but while disposing petition on 16th April 2014, this Court upheld the order passed under section 13 of the Act of 1969. Thus fact remains that respondent workers were also not found entitled for the wages. Contention of learned AGP that the issue of entitlement of wages was directed to be considered subsequently and therefore, application under section 13 of the Act of 1969 was filed, is without any merit. Neither the Board nor respondent workers have agitated the said issue of entitlement of wages when Writ petition No. 6109 of 2012 was finally disposed of.

25. In spite of their being very specific orders (i) in Writ petition no. 258/2009 dated 20- 4-2010 by which liberty to resort to appropriate remedy available in Industrial Law was granted to the workers, (ii) order passed in proceeding No. 1-2011, under section 13 of the Board holding workers, disentitled for recovery of amount with surcharge dated 14-2012, (iii) order dated 16th of April 2014 passed in Writ petition no 6109/2012 specifically observing that order passed under section 13 of the Act of 1969, does not call for interference, Respondent Board passed resolution dated 20 August 2014, directing

conducting de Novo enquiry and initiation of proceeding under section 13 of the Act of 1969. Further order dated 12th of July 2016 passed under section 13 of the Act of 1969, directing employer to pay wages of 12 workers along with Levy and interest by the Board, is striking example of exercising powers which are not conferred by the statute.

26. By passing order dated 12 July 2016, officer of the Board has virtually exercise power of review and re written Section 13 of the Act of 1969, nowhere confers power upon the Board to review its own order. The Board by passing resolution and order impugned dated 12 July 2016, has ignored provisions of law, particularly, Act of 1969. Once challenge to communication dated 24-09-2018 (by which workers were held to be dis-entitled for relief under Section 13 of the Act of 1969 since they were not in employment), failed, since Writ Petition No. 258/2008 was withdrawn with liberty to resort to appropriate remedy available in Industrial Law, Board ought to have appreciated that communication dated 24-09-2018 has become final. Further, respondent workers have not given any explanation as to why they did not take recourse to Industrial Law for redressal of their grievance.

27. It is well settled principle of law that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. If the powers to exercise review are not based upon statutory provision, more particularly, Act of 1969, respondent Board was not at all justified in passing the order impugned. Review being creature of statute, respondent Board could not have exercised the same. In that view of the matter petition is allowed in terms of prayer clause (i) and (ii). In the interest of justice, it is further directed that respondent Board will consider whether respondent workers can be provided work anywhere else, in view of order 25-02-2014, passed in Writ Petition No. 6109/2012 and the statement made by the counsel for the Board, within a period of four weeks, from communication of this order. The petition is disposed of.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)

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