

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 8655 of 2015**

=====

GUJARAT FOREST PRODUCE GATHERERS AND FOREST WORKERS
UNION & 4....Petitioner(s)
Versus
STATE OF GUJARAT & 3....Respondent(s)

=====

Appearance:

MR RAJESH M CHAUHAN, ADVOCATE for the Petitioner(s) No. 1 - 5

MR. BHARGAV PANDYA, AGP for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 1 - 4

=====

CORAM: HONOURABLE MR.JUSTICE N.V.ANJARIA

Date : 21/09/2016

ORAL ORDER

Heard learned advocate Mr. Rajesh Chauhan for the petitioners and learned Assistant government Pleader Mr. Bhargav Pandya for the respondents on the aspect of admission of the petition as well as grant of interim relief.

2. The first petitioner being the Union of workers, the four individual petitioners—petitioner Nos. 2 to 5 herein, are before this court. They have prayed to command the respondents to grant benefits of Resolution dated 17.10.1988. The second prayer is for setting aside the order dated 01.12.2014 passed by the Forest Officer, Idar whereby each of the petitioners was ordered to work as piece-rated worker. Interim prayer is made seeking a

direction against the respondents to take the petitioners back in service as daily wagers.

3. It is the case of the petitioners that they have been working under the Forest department as daily wagers since about 15 years. It appears that seeking the benefits under the Resolution dated 17.10.1988, they had an occasion to file Special Civil Application No. 2300 of 2014 and others. The said petitions culminated into the common oral judgment dated 01.05.2014, whereby this court directed the respondents to examine the cases of petitioners individually, and on being found eligible it was further directed to extend the benefits of government resolution dated 17.10.1988 as per the decision of the supreme court in State of Gujarat and others vs. PWD Employees' Union [(2013) 12 SCC 417]. The exercise was directed to be completed within four months.

3.1 It appears that the representation directed to be decided within four months was not decided and instead after passage of seven months, on 01.12.2014, the orders were passed directing each of the petitioners to come to a particular work and they would be given Rs. 6.90 on the basis of the proportion of the work got done. It was a piece-rate employment. The orders passed against the petitioners are produced on record on page Nos. 90 to 93.

4. The facts of the case clearly bring out that the conduct of the respondent authorities firstly in not deciding the representation as directed by this court for grant of benefit of the resolution and thereafter asking the petitioners to work as piece-rated workers was arbitrary and amounted to harrasement to the petitioners.

Learned advocate for the petitioners submitted that asking the petitioners to work in piece-rate capacity was a downgradation whereas learned Assistant government Pleader Mr. Bhargav Pandya, on the strength of affidavit-in-reply, submitted that there was no change in the service conditions.

5. The facts clearly suggest that the petitioners were subjected to harrasement by not deciding the representation and instead asking them to work in a different way with piece rate. As learned AGP states that there is no change in the work status of the petitioners, the said statement helps. If there is no change in the service status then the petitioners certainly are required to be treated as daily wagers. It was further pointed out from the affidavit-in-reply that the petitioners were also called for to work.

6. In any view, a strong *prima faice* case is made out. Therefore, Rule returnable on 23.03.2017.

7. By way of interim relief the respondents are directed to give work to each of the petitioners in capacity of daily wager and treat them as daily wager and pay the remuneration as daily wager. Learned advocate for the petitioners submitted that each of the petitioners will report to work as daily wagers. It is further directed that during the pendency of the petition, the directions of this court in Special Civil Application No. 2300 of 2014 as regards deciding the case of the petitioners for grant of benefit under 17.10.1988 shall be decided and decision shall be placed on record within two months.

cmjoshi

(N.V.ANJARIA, J.)