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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION STAMP NO.10569 OF 2020
(Align Components Pvt. Ltd., and another Vs. Union of India and
others)

WITH WRIT PETITION STAMP NO.10570 OF 2020

WITH WRIT PETITION STAMP NO.10571 OF 2020

WITH WRIT PETITION STAMP NO.10572 OF 2020

WITH WRIT PETITION STAMP NO.10573 OF 2020

Mr.T.K.Prabhakaran, Advocate for the petitioners.

Mr.D.G.Nagode, Standing Counsel for Union of India, Respondent
Nos. 1 and 2.

Mr.D.R.Kale, Government Pleader for respondent Nos. 3 to 5.

(CORAM : Ravindra V.Ghughe, J.)

DATE : 30/04/2020

PER COURT :

1. This matter is heard through video conferencing. The learned Advocate for the petitioners/Industries has no objection if this Court takes up all these matters for adjudication. The learned Government Pleader submits that this Court may consider these matters.

2. In all these identical petitions, the petitioners have challenged the notification issued by the Government of India, Ministry of Home Affairs dated 29/03/2020 vide which powers conferred u/s 10(2)(1) of the Disaster Management Act, 2005 have

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been invoked to ensure that the workers, including the migrants, would be paid their monthly wages by the employers taking into account the peculiar situation on account of Covid-19. It is contended that though the Managements are willing to offer work to the workers and though the workers would be willing to perform the work, restrictions have been imposed on the continuance of the manufacturing activities so as to restrict the spread of Covid-19 and as a consequence of which, the Managements have been mandated to reduce/shut down their manufacturing activities. In this backdrop, though these petitioners pray for exemption from paying monthly wages for the period of restriction of manufacturing activities, the learned Advocate for the petitioners submits on instructions that these petitioners are willing to pay 50% of the gross wages or the minimum rates of wages prescribed under the Minimum Wages Act, whichever is higher.

3. The learned counsel on the panel of the Union of India appears on behalf of respondent Nos. 1 and 2, and the learned Government Pleader appears on behalf of respondent Nos. 3, 4 and 5. Both seek time to take instructions.

4. I find that the Hon'ble Apex Court has passed an order on

27/04/2020 in a group of matters, in Ficus Pax Private Ltd., Vs. Union of India and others wherein a similar request by the employers / Management of Industries, has been put forth. The Hon'ble Apex Court has directed that the group of petitions be listed after two weeks. No interim relief is granted.

5. I also find that the Kerala High Court has stayed an order issued by the Finance Department of the Govt. of Kerala dated 23/04/2020, by which the payment of 50% salary has been permitted and the remainder payment of 50% salary was deferred.

6. I am of the view that as the Hon'ble Apex Court is dealing with a similar cause of action, I would not be inclined to interfere with the impugned order and would expect the petitioners to pay the gross monthly wages to the employees, save and except conveyance allowance and food allowance, if being paid on month to month basis in the cases of those workers who are not required to report for duties.

7. The learned Advocate for the petitioners seeks liberty to add the workers' representative/Union/Works Committee or intimate the workers' representatives to come forward with an intervention

application. The said request is accepted.

8. It is clarified that since the State of Maharashtra has partially lifted the lock down recently in certain industrial areas in the State of Maharashtra, the workers would be expected to report for duties as per the shift schedules subject to adequate protection, from Corona Virus infections, by the employer. In the event such workers voluntarily remain absent, the Management would be at liberty to deduct their wages for their absence subject to the procedure laid down in Law while initiating such action. This would apply even to areas where there may not have been a lock down.

9. Since the learned Advocate has caused an appearance on behalf of the respondents arrayed in the petitions, these matters would be listed on 18/05/2020 or on the day this Court holds Court hearing thereafter. The payment of gross wages by these petitioners to the workers, save and except conveyance/food allowance, shall be subject to the result of this petition.

(Ravindra V.Ghuge, J.)