

Kavita S.J.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13340 OF 2025

**Maharashtra Rajya Suraksha Rakshak & ...Petitioner
General Kamgar Union**

Versus

The State of Maharashtra & Ors.,

...Respondents

Mr. Avinash Belge for Petitioner.

M.M. Pabale, AGP for State / Respondent No.1.

Mr. Amardev J. Uniyal a/w B.L.Mangale for Respondent No.2.

Mr. Amrut Joshi a/w Ms. Kajal Gupta, Ms. Shweta Singh, S.D. Shetty,
Dheer Sampat, Mr. Yazad Udwardia i/b M.V. Kini & Co. for Respondent
Nos. 3 & 4 (IIT Bombay).

**CORAM : R.I. CHAGLA AND
ADVAIT M. SETHNA, JJ.**

RESERVED ON : 26th MARCH, 2026.

PRONOUNCED ON : 10th APRIL, 2026.

JUDGMENT: (Per R.I. Chagla, J.)

1. By this Writ Petition, the Petitioner – Maharashtra Rajya Suraksha Rakshak and General Kamgar Union has on behalf of its Security Guard members, totaling 81 Security Guards, a list of which has been annexed at Exhibit-A to the Petition, sought quashing and

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setting aside of the impugned Letter dated 11th August, 2025 (Exhibit-D to the Petition) and impugned Letter dated 25th August, 2025 (Exhibit-F to the Petition) issued by Respondent No.4 terminating the service of the Security Guards listed at Exhibit-A working in different Departments of Respondent No.3 Indian Institute of Technology, Bombay (“IIT”). Further direction is sought against Respondent Nos.3 and 4 - IIT to continue the service of the registered Security Guards allotted to them by the Respondent No.2 – Board and whose names are listed at Exhibit-A to the Petition.

2. The Petitioner – Union who has filed the present Petition on behalf of Security Guards who are members of the Union has claimed deprivation of the benefits provided in the Security Guards (Regulation of Employment and Welfare) Act, 1981 (referred to as “the said Act”) and the Private Security Guards (Regulation of Employment and Welfare) Scheme 2002 (referred to as the “said Scheme”), which have been enacted for securing the services of the Security Guards and to provide better service conditions to them.

3. Respondent No.3 - IIT had registered with Respondent No.2 – Security Guards Board as principal employer with Registration

No.3174 w.e.f. 30th March, 2016.

4. Respondent No.2 – Board vide its various orders allotted its members / Security Guards to Respondent No.3 - IIT. This was pursuant to the request of the Respondent No.3 – IIT to send Security Guards for securing their premises.

5. The Respondent No.4 - Chief Security Officer and Head of IIT instead of employing the registered Security Guards allotted by Respondent No.2 - Board issued a Letter dated 11th August, 2025 terminating the service of the Security Guards working with them w.e.f. 10th October, 2025.

6. Respondent No.2 – Board vide its Letter dated 14th August, 2025 directed Respondent No.4, not to terminate the service of any Security Guards working with them.

7. Respondent No.4 vide a Letter dated 25th August, 2025 issued Termination Letter and informed Respondent No.2 – Board that from 10th October 2025, the service of Security Guards working with Respondent No.3 - IIT will be terminated.

8. Respondent No.2 – Board again by its Letter dated 4th September, 2025 directed Respondent No.4, not to terminate the service of any Security Guards working with them. It was pointed out in the said letter that the actions taken by Respondent Nos. 3 and 4 are contrary to Clause 25(2) of the Maharashtra Private Security Guards (Regulation and Employment and Welfare) Scheme (Amended), 2005 and directed that the said action of termination is punishable under Clause 42 of the Scheme.

9. It is pertinent to note that Respondent No.1 - State had issued Government Resolution dated 8th November, 2006 regarding appointment of Security Guards in Respondent No.2 – Board established by the Government as well as appointment of ex-servicemen as Security Guards in Government Boards, Corporations / Municipalities / Local Self Government Institutions / Co-operative Societies / Government Offices etc.

10. Respondent No.2 – Board having issued its letter dated 4th September, 2025 which had not met with any response, carried out inspection of the premises of Respondent No.3 - IIT and it was observed that Respondent Nos. 3 and 4 - IIT are engaging Private

Security Guards through M/s Checkmate Facility & Electronic Solution Private Limited.

11. The Petitioner being aggrieved by the impugned Letters dated 11th August, 2025 and 25th August, 2025 issued by Respondent No.4, has filed the present Petition invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India.

12. There is a preliminary objection which has been raised by Mr. Amrut Joshi, learned Counsel appearing for Respondent Nos. 3 and 4 to the maintainability of the present Petition. He has submitted that the Petitioner – Union has no privity of contract and/or its members/Security Guards have no privity of contract with Respondent Nos. 3 and 4 – IIT. He has submitted that at the highest the relationship of IIT is with the Respondent No.2 - Board and it is the Respondent No.2 – Board who at all could have filed this Writ Petition challenging Respondent Nos.3 & 4 – IIT's decision to terminate their contract.

13. Mr. Joshi has submitted that it is for the Respondent No.2 – Board to re-deploy the Security Guards who are the members of the Petitioner – Union to another factory or establishment in

accordance with the said Scheme. He has submitted that by the present Petition, the Petitioner – Union is effectively seeking to compel IIT to continue its members/Security Guards listed at Exhibit-A to the Petition and thereby, indirectly seeking a relief equivalent to permanent attachment of those Guards to IIT which is contrary to the ratio of the Judgment of the Supreme Court in ***Krantikari Suraksha Rakshak Sanghatana Vs. Bharat Sanchar Nigam Limited***¹. In that case, the Supreme Court held that the pool guards allotted by the Board do not become direct and regular employees of the principal employer and that the Board retains control, including powers to transfer and re-deploy the Guards among different employers.

14. Mr. Joshi has also made submissions on the Respondent No.3 – IIT being neither an “establishment” nor a “factory” within the meaning of the said Act and the Scheme thereunder. He has referred to the definition of “establishment” under the said Act which adopts the definition of “establishment” from Section 2(8) of the Bombay Shops and Establishments Act, 1948. He has submitted that Section 2(8) defines “establishment” to mean shops, commercial establishments, residential hotels, restaurants and eating houses,

¹ (2008)10 SCC 166

theaters and places of public amusement or entertainment. These categories clearly indicate that the definition is intended to govern commercial or business establishments, or places of public amusement / entertainment, and not Central statutory academic institutions like IIT Bombay.

15. Mr. Joshi has further submitted that the expression “such other establishment” in the definition is to be construed *ejusdem generis* with the specific categories mentioned above. He has relied upon the Judgment of the Supreme Court in ***Amarchandra Chakraborty Vs. Collector of Excise, Tripura***² which held that where general words follow specific words forming a distinct genus, the general words must be confined to that genus.

16. Mr. Joshi has submitted that applying this doctrine, institutions such as IIT which is a Central autonomous academic and research body under the Institutes of Technology Act, 1961 cannot be equated with shops, commercial establishments or places of public amusement. IIT therefore falls outside the statutory concept of “establishment” contemplated by the said Act and the Bombay Shops and Establishments Act.

² (1972) 2 SCC 442

17. Mr. Joshi has submitted that the present controversy is directly guided by the Division Bench Judgment of this Court in *Maharashtra Suraksha Rakshak Aghadi Vs. Maharashtra Film, Stage and Culture Development Corporation Ltd. & Ors.*³. He has submitted that the Division Bench in the said decision had considered a similar case as the present, where the Petitioner – Union sought a direction compelling the Respondent establishment to continue Security Guards supplied through the Security Guards Board. The Respondent establishment as the present Respondent Nos. 3 and 4 - IIT decided to engage security personnel supplied by the Maharashtra State Security Corporation under the Maharashtra State Security Corporation Act, 2010. This Court had in these circumstances noted that the Petitioner was unable to point out any statutory provision requiring the establishment to always employ Security Guards through the Board. The Division Bench had found no error in the stand taken by the establishment of engaging Security Guards through Maharashtra State Security Corporation (“**MSSC**”) and not through the Board. The Division Bench further recorded that if the Board had an allegation regarding the establishment appointing private Security Guards, then the Board had its remedies to take appropriate action in accordance

³ Decision dated 21st November, 2018 in Writ Petition No.12288 of 2016

with law.

18. Mr. Joshi has further submitted that Respondent No.2 – Board has not independently challenged the impugned Termination Letters dated 11th August, 2025 and 25th August, 2025 which had been issued by Respondent Nos.3 and 4 - IIT taking a policy decision to secure its campus through the MSSC under the Maharashtra State Security Corporation Act, 2010 and thereby terminating the Respondent No.2 – Board's arrangement. He has submitted that the ratio of the aforesaid decision of the Division Bench squarely supports Respondent Nos.3 and 4 - IIT's stand.

19. Mr. Joshi has submitted that Respondent No.3 - IIT though not being an establishment and governed under the said Act voluntarily registered itself and hence, it does not become irrevocably and perpetually bound to employ Security Guards from the Respondent No.2 – Board.

20. Mr. Joshi has further submitted that the Security Guards remain within the Respondent No.2 – Board's statutory scheme and can be re-deployed to any other establishment or factory by the Board. They do not possess any vested right to be deployed at IIT in

particular, and their statutory protections under the 1981 Act are unaffected by IIT's decision to disengage from the Board arrangement.

21. Mr. Avinash Belge, learned Counsel appearing for the Petitioner – Union supported by Mr. Uniyal, learned Counsel appearing for Respondent No.2 – Board have placed reliance upon orders passed by this Court in Writ Petitions which have been filed by the Petitioner – Union representing its members / Security Guards. This include Writ Petitions filed by ***Maharashtra Rajya Suraksha Rakshak & General Kamgar Union*** being ***Writ Petition No.8262 of 2023*** and ***Pune District Suraksha Rakshak and General Kamgar Union*** being ***Writ Petition No.14769 of 2022***.

22. They have also relied upon the Writ Petition filed by ***Motherson Automative Technologies and Engineering Vs. Pune District Security Guard Board, Pune and Ors. in Writ Petition (St.) No.30907 of 2022***, wherein the Division Bench of this Court had considered the challenge of the Petitioner to the order passed by Respondent No.2 allotting/deploying 18 Security Guards. It was the contention of the Petitioner that the Exemption Application filed by

Respondent No.1 therein seeking exemption, was pending with the Board since 2016. This Court had considered the Petitioner to be registered with the Board and held that Petitioner cannot employ Security Guards through the Contractor. In light of that, till the Exemption Application was decided the Petitioner had to employ the Security Guards allotted by the Board. The Division Bench allowed the Respondent – Board to allot/deploy 11 Security Guards at the Petitioner’s establishment and to assess the requirement of Security Guards and pass further orders with regard to deployment. The Respondent – Board was also directed to consider the application of the Petitioner to pay assessment of dues. Accordingly, the Writ Petition had been disposed of by directing that depending upon the decision taken on the Exemption Application, parties may take further steps. The Application for Exemption was directed to be decided expeditiously.

23. Mr. Belge has in context of the preliminary objection raised on behalf of Respondent Nos.3 and 4 – IIT has submitted that the Petitioner – Union representing its members/Security Guards, being 81 in number, has filed the present Petition claiming protection of their rights under the said Act and Scheme. He has submitted that

by the impugned letters issued by Respondent Nos. 3 and 4 - IIT the Security Guards/members of the Petitioner – Union are being deprived of their benefits under the said Act and Scheme, which have been enacted for securing the services of the Security Guards and to provide better service conditions to them. They have sought implementation of the said Act and Scheme particularly since Respondent No.3 – IIT has been registered as a principal employer under the said Act and there is a statutory obligation of Respondent Nos. 3 and 4 - IIT to engage Security Guards allotted to them by the Respondent No.2 – Board.

24. Mr. Belge has submitted that there is a clear violation of the said Act by Respondent Nos. 3 and 4 employing Private Security Guards viz. M/s Checkmate Facility & Electronic Solution Private Limited which is contrary to the said Act as well as Clause 25(2) of the Scheme framed under the said Act. He has submitted that the present Writ Petition is maintainable as the impugned letters of termination issued by Respondent Nos. 3 and 4 - IIT are in violation of the fundamental rights of the Security Guards/members of the Petitioner – Union to employment and/or carrying on of their livelihood.

25. There have been further submissions made by Mr. Belge and Mr. Uniyal on the said Act and the Maharashtra State Security Corporation Act, 2010 operating in completely different and clearly discernible fields and co-existing harmoniously. They have placed reliance upon the Judgment of the Supreme Court in *Security Association of India and Anr., Vs. Union of India and Ors.*,⁴ which has upheld the said Act by holding that the said Act being a State Act occupies a distinct field from the Central Act viz. the Private Security Agencies (Regulation) Act, 2005. Further, the said Act has been held to be not violative of Articles 14 and 19 of the Constitution as the restrictions imposed by the said Act are found to be reasonable restrictions envisioned by the Constitution and they protect the rights and ensure the welfare of private security agencies by means of Section 23 and relevant provisions of the said Scheme. The principal employer is prohibited from taking Private Security Guards from security agencies and that exemption could be asked only in respect of Private Security Guards provided that the three conditions viz. firstly that they are employed by the agency or agent; secondly they are deployed by that concerned agency in a factory or establishment and thirdly in the opinion of the State Government, all such Security

4 AIR 2014 SC 3812

Guards or such class or classes of Security Guards at the time of seeking exemption are in the enjoyment of benefits which on the whole are not less favourable to such Security Guards than the benefits provided by or under the said Act or any Scheme made thereunder. The Supreme Court has further held that it was only a one time exercise for seeking exemption of Private Security Guards who were employed by the Agency and deployed in factory or establishment.

26. Mr. Belge and Mr. Uniyal have also dealt with the submission of Respondent Nos. 3 and 4 that IIT does not fall within the definition of establishment under the said Act which adopts the definition of “establishment” from Section 2(8) of the Bombay Shops and Establishments Act, 1948. They have submitted that IIT is an “establishment” as defined under Section 2(8) of the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017. The very fact that “Establishments” pertaining to any kind of educational activities are exempted under Section 3 (9) of the Maharashtra Shops and Establishment Act, 1948 shows that Respondent No.3 (which is an educational institution) is required to be exempted because in the first place it is covered in the

definition of “Establishment”. Had it not been covered under the definition of “Establishment” under Section 2(8) of the Maharashtra Shops and Establishment Act, there would be no need for such exemption. They have submitted that the exemption under Section 3(9) of the Maharashtra Shops and Establishment Act is only for the purpose of Maharashtra Shops and Establishment Act and cannot be construed as exemption under the said Act.

27. Mr. Belge and Mr. Uniyal have further submitted that the said Act specially provided for an exemption under Section 23 thereof and the State Government has not granted any such exemption in respect of the educational institution.

28. They have placed reliance upon the Judgment of the Supreme Court in *B.P. Hira Works Vs. C.M. Pradhan*⁵ which holds that inclusion of any such office and institution in Column II of Schedule II of the Bombay Shops and Establishment Act, 1948 i.e. establishments which are granted exemption under Section 4 thereof must be and are establishments under Section 2(8) of the Act.

29. They have accordingly submitted that the arguments of

⁵ 1959 SCC OnLine SC 158

Respondent Nos. 3 and 4 do not hold any water and deserve to be rejected.

30. We have considered the submissions. Although there have been submissions made by the learned Counsel for the parties on the applicability of the said Act and the said Scheme to IIT and the effect of registration of IIT under the said Act, it would not be necessary to determine these issues, having been satisfied with the preliminary objections on maintainability of the Petition filed by the Petitioner – Union instead of the Respondent No.2 – Board.

31. We find much merit in the submission of Respondent Nos. 3 and 4 – IIT that the present Petition filed by the Petitioner – Union representing its members / Security Guards is not maintainable as there is no privity of the Union and/or its members/Security Guards with Respondent No.3. There is no employer – employee relationship between them. At the highest there is privity between Respondent No.2 – Board and Respondent No.3. Respondent No.2 – Board has chosen not to come forward and file the Petition inspite of Respondent Nos. 3 and 4 – IIT terminating their contract with them.

32. It is well settled that Security Guards deployed through the Respondent No.2 – Board do not become employees of the principal employer. The Supreme Court in ***Krantikari Suraksha Rakshak Sanghatana Vs. BSNL (supra)*** has held that pool guards allotted by the Board do not become direct and regular employees of the principal employer and that the Board retains control, including powers to transfer and re-deploy the Guards among different employers.

33. It is always open for the Respondent No.2 – Board to re-deploy the Security Guards to any other factory or establishment in accordance with the said Scheme. The Guards have no vested right in being retained with Respondent Nos.3 and 4 – IIT and the Petitioner – Union cannot compel IIT to continue the Security Guards/members of the Petitioner – Union listed at Exhibit-A to the Petition. There can be no permanent attachment of those Security Guards to IIT. The present Petition by indirectly asking for such relief is contrary to the ratio of ***Krantikari Suraksha Rakshak Sanghatana Vs. BSNL (supra)***.

34. We are accordingly of the view that the present Writ

Petition filed by the Petitioner – Union is thoroughly misconceived apart from not being maintainable. If at all, it was for the Respondent No.2 – Board to have come forward and filed the Petition impugning the termination of their service by Respondent Nos. 3 and 4 - IIT. There is no deprivation of any of the benefits of the Security Guards/ members of the Petitioner – Union under the said Act and Scheme, particularly when Respondent No.2 – Board can always re-deploy these Security Guards at any other establishment.

35. The Writ Petition is accordingly dismissed as not being maintainable. There shall be no orders as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]

36. The learned Counsel appearing for the Petitioner has sought stay of this Judgment and Order for the Petitioner to avail of Appellate remedy.

37. Mr. Joshi, learned Counsel appearing for Respondent Nos. 3 & 4 - IIT has opposed granting of stay of this Judgment and

Order on the ground that prior to the interim order being passed by this Court, Respondent Nos. 3 & 4 - IIT have already deployed Security Guards from MSSC.

38. Considering that there has been an interim order which is in operation, for some time, the Application for stay of this Judgment for a period of four weeks is granted. We make it clear that the position prior to grant of interim order is not being disturbed.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]