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

WRIT PETITION NO. 1345 OF 2002

- 1 The Divisional Controller,
Maharashtra State Road Transport
Corporation, Division Latur,
Latur, District Latur.
- 2 The Depot Manager,
Maharashtra State Road Transport
Corporation, Depot Latur,
Latur, District Latur.

...PETITIONERS

-VERSUS-

- 1 Shamsundar Badarinarayan Sharma,
Age : 50 years, Occ : Service.
- 2 Panditrao Gyanoba Jadhav,
Age : 53 years, Occ : Service.
- 3 Rahimkhan Mahmadkhan Pathan,
Age : 43 years, Occ : Service.
- 4 Shaikh Wahidmian Jamilioddin,
Age : 56 years, Occ : Service.
- 5 Limbraj Dadarao Langer,
Age : 56 years, Occ : Service.

All residents of C/o Depot Manager,
Maharashtra State Road Transport
Corporation, Depot Latur, Latur,
District Latur.

...RESPONDENTS

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Advocate for Petitioner : Mrs.R D Reddy.

Advocate for Respondents : Shri J.R.Patil.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th October, 2015

Oral Judgment:

1 This petition was admitted by this Court on 16.04.2002. The said order reads as under:-

“Heard Shri P.K.Joshi, advocate for the petitioner and Shri V.D.Salunke, advocate holding for Shri J.R.Patil, advocate for the Respondent No.1.

Rule.

Interim relief in terms of prayer clause (D) so far as Respondent No.1 is concerned.

Ad-interim relief in terms of prayer clause (D) so far as Respondent Nos.2 to 5 are concerned, with notice.”

2 I have heard Mrs.Reddy, learned Advocate for the Petitioner / MSRTC and Shri Patil, learned Advocate for the Respondents, at length.

3 The learned Advocate for the Petitioner has also filed the brief written notes of arguments. She has relied upon the following judgments:-

(a) MSRTC v/s Maharashtra S.T. Chalak Wahak Yantriki Sanghatana, Akola, 2007(4) Mh.L.J. 793.

(b) Union of India v/s Smt.Sujatha Vedachalam, 2000 (86) FLR 83.

- (c) Comptroller and Auditor General of India v/s Farid Sattar, 2000 (85) FLR 856.
- (d) The Sales Tax Officer, Banaras and others v/s Kanhaiya Lala Makund Lal Saraf, AIR 1959 SC 135.
- (e) Sri Sri Shiba Prasad Singh, deceased, now represented by Kali Prasad Singha v/s Maharaja Srish Chandra Nandi, AIR (36) 1949 Privy Council 297.

4 Having considered the submissions of the learned Advocates and having gone through the record and proceedings and the written notes of argument of the Petitioner, I am of the view that this petition has been rendered of an academic interest.

5 The Petitioner had introduced a notice dated 10.06.2000 which is at page 29 of the petition paper book. Vide the said notice, it was brought to the notice of all Drivers and Conductors that they were not performing their duties on the third day and yet were claiming wages. They were, therefore, noticed that if they do not perform their duties on the third consecutive day, they would be marked absent and would suffer loss of pay.

6 The above said notice dated 10.06.2000 was challenged by

the Respondents in Complaint (ULP) No.151/2000. By an interim order dated 10.08.2000, the said notice was stayed on account of being prima facie violative of Section 9(A) of the Industrial Disputes Act, 1947 and Schedule IV there below.

7 By the order dated 14.09.2001 in Writ Petition No.3677/2000, this Court has set aside the interim order dated 10.08.2000 and directed the Industrial Court to decide the complaint expeditiously and in any case on or before 31.03.2002.

8 By the impugned judgment dated 05.03.2002, Complaint (ULP) No.151/2000 was partly allowed. The notice dated 10.06.2000 was set aside and the Petitioner was directed not to give effect to the said notice unless Section 9A is complied with.

9 By an interim order passed by this Court, the judgment and order of the Industrial Court was stayed.

10 It is submitted by the learned Advocates for the parties that the so called practice of granting the third day holiday with leave after having worked for two consecutive days on long journeys, was permanently discontinued from the year 2000. In the entire State as on

date, there is no such practice at any depot.

11 The Petitioner also indicates from the circular dated 27.07.1992 issued by the Labour Department, Central Office of the Petitioner/ MSRTC by which the Regional Labour Officers are informed that the Government of Maharashtra has granted exemption to the Petitioner / MSRTC from operation of certain provisions of the Industrial Disputes Act, 1947, the Industrial Employment (Standing Orders) Act, 1946 and the Minimum Wages Act, 1948. Vide the said circular, the Petitioner is exempted from the compliance of Section 9A of the Industrial Disputes Act, 1947, while issuing any notice for introducing change in service conditions.

12 Shri Patil submits that this circular was not placed before the Industrial Court and is produced before this Court today for the first time.

13 In the light of the above, the intention of the Petitioner of not granting a paid holiday on the third day after the bus drivers/ conductors have worked on long journeys on two consecutive days, is fulfilled. It would, therefore, be a futile exercise to dig out an old issue as to whether, the notice dated 10.06.2000 was rightly issued by the Petitioner or not, and whether, it was not affected by Section 9A of the Industrial Disputes

Act, 1947.

14 Even if it is presumed that this petition is allowed, the notice dated 10.06.2000 would serve no purpose as no such notice is now required to be introduced since the so called practice of granting a paid holiday on the third day is no longer in existence.

15 In the light of the above, this petition is disposed of as being infructuous. Rule is discharged.

(RAVINDRA V. GHUGE, J.)