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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO.18500 OF 2017**

Tata Motors Employees Union ... Petitioner
through its President/Secretary

vs.

Tata Motors Ltd. ... Respondent

Mr. V. P. Vaidya i/b. Mr. Mahendra Mukund Agavekar for the Petitioner.

Mr. Kiran Bapat a/w. Mr. A. K. Gopalan i/b. Haresh Mehta & Co. for Respondent
no.1.

CORAM : A. K. MENON, J.

DATE : 13th JULY, 2017

P.C.:

1. This Writ petition impugns an order dated 15th June, 2017 passed by the Industrial Court rejecting application for interim reliefs. The application before the Industrial Court was made on 31st May, 2017 seeking –

(i) A declaration that the petitioner herein has engaged in unfair labour practices under the MRTU & PULP Act, 1971.

(ii) A declaration that provision for parking vehicles is a service condition of employees and hence a change of service conditions would necessitate notice as contemplated under Section 9(A) of the Industrial Disputes Act, 1947.

(iii) A further interim direction that the parking space presently in use by the members of the petitioner's union should not be disturbed.

2. The petitioner union has taken up cause of workers who have been entering the factory premises in their two wheelers and parking their two wheelers near their place of work within the factory. These workers have now been asked by the respondent company to use alternate parking areas which have been demarcated within the outer periphery of the plant. The petitioner now complains that the existing parking practices are followed by the workers for over 40 years and therefore it is an essential part of their service conditions under Schedule IV of the Industrial Disputes Act, 1947. It is accordingly submitted by the learned Counsel for the petitioner that facility for parking amounts to a customary concession and/or privilege and usage which has been in vogue for several years and any change of such usage or withdrawal of the customary concession or privilege would amount to change in service condition for which notice under section 9(A) was mandatory. In the instant case no such notice has been given. Accordingly, it is submitted that the alternate parking arrangements proposed are in violation of the Act and therefore interim relief needs to be granted. An application for interim relief was made which came to be heard and rejected by the impugned order.

3. Mr. Bapat learned counsel for the company submitted that in its written statement and submissions before the Industrial Court the company has disclosed that it is operating plants at Pimpri, Chinchwad and Chikhali. The factories are functioning in different shifts. The Shift starts at 6.30 pm and ends at 3.00 pm. Nearly 488 workers bring their two wheelers at Pimpri and 200 employees bring

two wheelers to Chinchwad and 800 employees bring two wheelers in the Chikhali factory. Similarly in other shifts also workers use their two wheelers to come to the plant and park in locations convenient to the workers.

4. Having heard the Counsel for both parties, I find that it is not in dispute that alternate parking arrangement have been so offered in order to enable ease of access of the petitioners members to their respective work areas. The respondent company has arranged for shuttle bus services in an attempt to de-congest the internal roads and which shuttles provide access to the various plants within each of these three factory premises. This fact is also not in dispute. It is in the interest of convenience and de-congestion of the internal roads of the plant that alternate arrangements have now been proposed. It is case of the respondent company in its written statement that the facility for parking now being utilised by the members of the petitioner union does not form part of the service conditions and cannot be claimed as a customary concession or privilege. I am of the view that there is no inherent right in the members of the union to park at a location that they choose and they deem convenient.

5. The Company has now made alternate arrangement in the interest of de-congestion and to prevent accidents within the premises. A large number of two wheelers moving in and out at the beginning and end of every shift causes traffic congestion within the factories. Considering that there are shuttle buses also running within the factories the risk of accidents has increased and there have

been several such accidents around the plant and factory premises due to moving of these vehicles. It is for this reason and interest of safety and good order that the respondent company has arranged for buses to fetch employees from the respective bus stops and drop them to the relevant plant within the factory premises at the beginning and end of every shift.

6. The company has stated that in all there were 183 buses provided for transportation thus far and the company have added further 44 buses across three plants viz., Pimpri, Chinchwad and Chikhali. It is submitted that these buses are being used to ferry the employees from their various pick up points to the main gate of these factories, after the employees are brought to the main gate by the buses at a nominal charge of Rs.5/- per month per employee. These buses have been in operation since April, 2015 till date. In addition to facilitate the movement of the employees after they enter the factory, shuttle buses are operating. It is responsibility of the company to ensure that these shuttle buses run as per schedule in order to ensure that the workers are able to reach their work areas from the embarkation point.

7. In the circumstances prima facie service conditions do not appear to have been breached if parking areas, shifting to location / periphery of these plants. All that is being done instead permitting employees to park near the workshop / floors where the workers may be engaged, the company now requires them to park their two wheeler(s) at designated parking areas within the factory premises

but at the periphery.. In order to reach respective work area the workers are at liberty to use the shuttle services being provided which is free of cost to the employees. It is often observed that two wheelers due to their dimensions are capable of ridden in a disorderly fashion. This tends to expose them to risk of accidents in areas where the shuttle buses operate. The larger interests of the workmen will be protected if they use the shuttle buses. The two wheelers cannot claim priority over the shuttles.

8. In the circumstances, I find that the grievance of the Petitioner is devoid of any merit. Furthermore, considering the fact that these interim orders and the application is yet to be heard by the industrial court on merits, no case whatsoever is made out for interference at this stage in the Writ Jurisdiction of this Court. The main application if pursued by the petitioner shall be decided without being influenced by observations in this order.

9. In the circumstances, I pass the following order :

- (i) Writ petition is dismissed.
- (ii) No order as to costs.

(A. K. MENON, J.)