

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL APPLICATION NO. 766 OF 2018  
IN  
WRIT PETITION (ST) NO. 35549 OF 2017**

Sudeshna Sen ...Applicant

**IN THE MATTER BETWEEN**

Vodafone Mobile Services Ltd. ...Petitioner

Vs.

Secretary, Ministry of Labour & anr. ...Respondents

....

Mr. Sudhir Jalsania, Senior Advocate with Mr. R.N. Shah with  
Mr. Piyush Shah for the petitioner.

Mr. C.P. Yadav for State – respondent No.1.

Mr. Ashutosh R. Gole for respondent No.2.

Ms. Bhavana Mhatre for applicant in CAW No.766/2018 and for  
respondent No.3 in WPST No.35549/2017.

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**CORAM : SHANTANU S. KEMKAR &  
M.S.KARNIK, JJ.**

**DATE : 2<sup>nd</sup> APRIL, 2018.**

**P.C. :**

Heard learned Counsel for the parties on the Civil Application No.766 of 2018. On due consideration Civil Application is allowed. The applicant of the Civil Application be impleaded as respondent No.3 in the Writ Petition. Amendment to be carried out during the course of the day.

2. Challenging the order of reference dated 11/9/2017 passed by the Deputy Commissioner of Labour, Pune, on the basis of delegation given to it by State Government the petitioner who claims to be “controlled industry” under Section 2(a)(i) of the Industrial Disputes Act, 1947 has filed this petition.

3. According to the petitioner it is a controlled industry notified as per Notification dated 4<sup>th</sup> November, 2004, in the circumstances the appropriate Government for making the reference would be Central Government and not the State Government. Therefore the impugned reference made by the State Government is without jurisdiction.

4. Learned AGP has supported the impugned order and contended that the reference has rightly been made by the State Government.

5. Learned Counsel appearing for newly added respondent No.3 has fairly stated that the appropriate Government in the present case would be the Central Government and not the State Government.

6. We have considered the submissions made by the learned Counsel for the petitioner, learned AGP and learned Counsel for the respondents and we have also gone through the impugned order as also the provisions of the Industrial Disputes Act, 1947.

7. Mere reading of the definition of the term “appropriate Government” it is clear that for the purpose of the petitioner which is a “controlled industry” notified in the official gazette dated 4<sup>th</sup> November, 2004, the appropriate Government would be the Central Government.

8. In the circumstances, in our opinion, the impugned order being without jurisdiction the same cannot be sustained. Accordingly, we set aside the impugned order, however, with liberty to the respondent No.3 to take recourse for making reference before the appropriate Government.

9. With the aforesaid liberty the petition is allowed to the extent as indicated above.

10. All other contentions are kept open.

(M.S.KARNIK, J.)

(SHANTANU S. KEMKAR, J.)