

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 10691 OF 2017**

Nhava Sheva International Container
Terminal Ltd. Bundar Kamgar Union

....Petitioner.

Vs.

Ministry of Shipping
Government of India & Ors.

....Respondents.

Mr. Rampal Kohli a/w Nilharika S. Waradkar, Zaid, Karan,
Harshwardhan i/by C.K. Legal for the Petitioner.

Mr. Ashish Mehta i/by P.M. Palshikar a/w Surbhi Soni for Respondent
Nos. 1 and 3.

Mr. Omprakash Jha i/by The Law Point for Respondent No. 2.

Ms. N. Sumnaz i/by Bhatt & Saldana for Respondent No.9.

**CORAM : R.M. BORDE AND
R.G. KETKAR, JJ.**

DATE : 8 JANUARY 2018.

P.C.:-

The Petitioner had earlier moved this Court by presenting Writ Petition bearing (Lodging) No. 1340 of 2017. After hearing the Petitioner, as well as, the counsel representing Respondent Nos. 1 and 2, this Court granted liberty to the Petitioner to withdraw the said Petition with liberty to avail of appropriate remedy available against Respondent No.3, in accordance with law. Respondent No.3 in the aforesaid Petition was Nhava Sheva International Container Terminal

Limited, Mumbai, whereas, Respondent No.2 was the Board of Trustees of Jawaharlal Nehru Port. One of the prayers, incorporated in the said Petition was for issuance of writ in the nature of mandamus or any other appropriate writ, order or direction to Respondent No.2, i.e. the Board of Trustees of Jawaharlal Nehru Port, to take all necessary steps to implement the terms and conditions of the License Agreement dated 3 July 1997.

2 In the instant Petition, prayer clause (c) that has been incorporated, reads thus-

“(c) This Hon'ble Court be pleased to issue a writ of mandamus and/or any other appropriate writ and/or direction and / or order in the nature of mandamus thereby directing the Respondent No.1 to exercise powers under the Major Port Trusts Act, 1963 by issuing directions to JNPT/Respondent No. 2 to take necessary steps for ensuring that the mandatory obligations cast upon the Respondent No.9 in terms of the License Agreement dated 03/07/1997 (being Exhibit 'A' to the present petition) are strictly complied with effect from the date of execution of the License Agreement dated 03/07/1997.”

3 The learned counsel appearing for the Petitioner states that a direction is sought against Respondent No.1 to initiate necessary action against Respondent No. 2 i.e. JNPT in exercise of

powers under Major Ports Act, 1963 and other relevant laws and as such, the prayer as sought in the instant Writ Petition to cast mandatory obligations upon Respondent No.9, consequent upon non-observance of directions issued in the earlier Petition, being distinct, Petition shall be entertained. Since the earlier Writ Petition bearing (Lodging) No. 1340 of 2017, has been withdrawn by the Petitioner with liberty to avail of the alternate remedy available in law, the instant Petition founded upon same cause, does deserve to be entertained.

4 The learned counsel appearing for Respondent No.9 i.e. Nhava Sheva International Container Terminal Ltd. Mumbai, Respondent No.3 in the earlier Petition, states on instruction that, the Petitioner had already availed of the alternate remedy, since the Petitioner had moved to the Labour Commissioner and the hearing in the said matter is in progress. In view of the facts as stated above, the instant Petition does not deserves to be entertained.

5 The present Writ Petition accordingly stands disposed of with liberty to avail of alternate remedy/ or to continue with the proceedings already initiated.

(R.G. KETKAR, J.)

(R.M. BORDE, J.)