

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

**WRIT PETITION NO.1092 OF 2018
WITH
WRIT PETITION NO.1100 OF 2018
WITH
WRIT PETITION NO.1101 OF 2018**

Kachara Vahatuk Shramik Sangh	...Petitioner
vs	
The Greater Mumbai Municipal Corporation	...Respondent

....

Ms. Jane Cox, i/b. Ms. Karishma Rao, for the Petitioner.

Mr. A.V. Bukhari, Senior Advocate, a/w. Mr. Burhan Bukhari, a/w. Mr. Vinod Mahadik, for the Respondent MCGM in Writ Petition No.1101 of 2018.

Mr. Burhan Bukhari, a/w. Mr. Vinod Mahadik, for the Respondent MCGM in WP/1092/2018 and 1100/2018.

.....

CORAM : S.C. GUPTE, J.

DATED: AUGUST 14, 2018

P.C:

. After the matter is heard at length, it is agreed between learned Counsel for both sides that the petition may be disposed of but no reasons may be discussed in the order. It is accordingly ordered as follows:

. As per the interim order dated 12 April 2006 in Reference (IT) No.81 of 2005, order dated 31 October 2015 in Reference (IT) No.5 of 2014 and order dated 5 April 2016 in Reference (IT) No.29 of 2015,

passed by the Industrial Tribunal in pending references, the NGOs/Co-operative Societies shall hire at least 60% of workmen, i.e. 60% of the total workforce engaged by them for the manual work of sweeping, manning and mopping, collection and transportation of garbage, from amongst the list of workmen in the said references. The Municipal Corporation shall accordingly include a suitable condition in the tenders and ensure that the concerned NGOs/Co-operative Societies adhere to such condition. It is clarified that as per the Investigating Officer's Report dated 30 August 2016 in Reference (IT) No.81/2005, only 230 workmen are identified and therefore 60% workmen would be from these 230 workmen only. It is further clarified that in Reference (IT) No.5 of 2014 and Reference (IT) No.29 of 2015, 60% would be from amongst the list of persons identified by the Investigation Officers in their reports in the said references. This arrangement shall only be in respect of manual sweeping and not mechanical sweeping.

2. So far as grievances of the Petitioner Union that certain persons are denied work by the NGOs/Societies are concerned, the Petitioner will provide the list of such workmen along with the names of NGOs/Societies with whom they were working earlier and the same will be considered by the Respondent Corporation after verification from the concerned NGOs/Societies and if they are found to have worked for the concerned NGOs/Societies, the Respondent Corporation shall treat them as eligible under the formula noted in paragraph 1 above. It is clarified that the formula of 60:40 provided in the interim orders referred to above shall be adhered to strictly in both letter and spirit by the NGOs/Societies so that the entire manual work is carried out by

engagement of 60% workers from the Petitioner's list in terms of both days of work and the scope of the work. The Corporation shall add a suitable clause in the contracts of NGOs/Societies accordingly.

3. Any dispute regarding implementation or execution of these orders by NGOs/Societies will be referred by the parties to the Deputy Municipal Commissioner of SWM Department of the Respondent Corporation or any other Officer assigned by him, who will strive to resolve the same in accordance with this order.

4. Considering that Reference (IT) No.81/2005 is pending before the Industrial Tribunal since 2005, it will be in the interest of all parties concerned and is accordingly ordered that the said reference be finally heard and decided as far as possible before 30 July 2019 as per the Schedule mentioned hereunder:

(i) Filing of additional pleading, if any, and/or documents to be completed on or before 30 October 2018.

(ii) Evidence (including cross examination) of 2nd Party (Petitioner) witnesses to be completed by 28 February 2019.

(iii) Evidence (including cross examination) of 1st Party (Respondent) witnesses to be completed by 30 April 2019.

(iv) Final arguments to be concluded and award to be passed on or before 30 July 2019.

It will be open to the parties to lead common evidence in the three references, if they so desire. Industrial Tribunal may, as per its convenience, change the dates in the schedule mentioned above, but keep as far as possible to the final date of disposal, i.e. 30 July 2019.

5. As regards industrial disputes in Reference (IT) Nos.5 of 2014 and 29 of 2015 pending before the Industrial Tribunal for adjudication, the hearing of the references is expedited. These references will be finally heard and decided as far as possible within a period of 18 months from the date of this order.

6. It is made clear that the Industrial Tribunal, while passing final awards, shall not in any way be influenced by any of the findings or observations in the additional interim order dated 1 November 2017 in Reference (IT) No.81/2005, Reference (IT) No.5/2014 and Reference (IT) No.29/2015. All contentions of parties are left open including the submissions on the right of the workmen to work for mechanized sweeping operations.

7. The petitions are disposed in terms of the above order with no order as to costs.

Smita
Johnson
Gonsalves

Digitally signed
by Smita
Johnson
Gonsalves
Date:
2018.08.21
11:38:05 +0530

(S.C. GUPTE, J.)