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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3702 OF 2018

Shramajivi Kamgar Rayat Sanghatana	... Petitioner
Vs.	
Vasai Virar Municipal Corporation and Ors.	... Respondents

Mr. Kishor Shrirang Patil for the Petitioner.
 Mr. Amol Bavare I/by Pragnya Legal for the Respondent No.1.
 Mr. Y.S. Khochare, AGP for the Respondent – State.
 Mr. D.Y. Dange, Desk Officer, Labour Department, present in person.

CORAM : A.S.OKA AND
 SANDEEP K. SHINDE, JJ.

DATE : 30th NOVEMBER 2018.

P.C. :

1 Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned AGP for the third respondent. The petitioner represents the persons who have been appointed through the second respondent contractor to work as Drivers and Conductors under the Transport undertaking run by the first respondent – Municipal Corporation. The contention of the petitioner is that though the transport undertaking is run by the first respondent - Municipal Corporation, there is disparity in minimum wages applicable to the contract employees employed by the transport undertaking and the transport employees which are employed in other sections of the first

respondent – Municipal Corporation. Perhaps, the view taken by the first respondent was that in view of notification dated 20th July 2010 issued by the State Government in exercise of powers under sub-section (2) of section 5 read with sub-section (1)(B) of Section 3 of the Minimum Wages Act, 1948, the concerned employees will have to be treated as employed in a public motor transport.

2 On 10th March 2017, the Commissioner of Labour of the State Government addressed a letter to the Member Secretary of the Industries, Energies and Labour Department of the Government of Maharashtra in which he opined that the rate of minimum wages which is applicable to Government institutions (including Village Panchayats) under the notification dated 25th April 2007 should be made applicable to contract workers in transport undertaking of the first respondent. That is the view expressed in the said letter dated 10th March 2017. After expressing the said view, the Commissioner of Labour sought guidance from the State Government.

3 The learned AGP produced for perusal of the Court, a note prepared by the Industries, Energy and Labour Department. He stated that perhaps due to conflicting opinions received by the State Government, the decision has not been taken on the basis of the communication dated 10th March 2017 issued by the Commissioner of Labour.

4 The learned AGP states that appropriate decision will be taken by the State Government within a period of six weeks from today.

He makes this statement on instructions of Mr. D.Y. Dange, Desk Officer, Labour Department.

5 Though we are not deciding the issue of applicability of the Government Resolutions dated 20th July 2010 and 24th February 2015, we are sure that due weightage will be given by the State Government to the opinion expressed by the Commissioner of Labour.

6 We, accordingly, direct the State Government to take appropriate decision on the basis of the said communication dated 10th March 2017 as expeditiously as possible and in any event, within a period of six weeks from the date on which this order is uploaded.

7 A copy of the decision taken by the State Government shall be forwarded to the petitioner and the first respondent within a period of two weeks from the date on which this decision is taken. The petition is disposed of. All contentions on merits are kept open. All concerned to act upon an authenticated copy of this order.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)