

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.765 OF 2018

Vidyavihar Containers Limited (Formerly
known as “Nathani Steels Limited”)

& Anr.

.... Petitioners

Vs.

The State of Maharashtra & Ors.

.... Respondents

Mr. Rafique Dada, Senior Counsel with Mr. Jai Chabbria,
Mr. Federal, Mr. Murtuza Federal & Ms Anuja Abhiyankar
i/by M/s. Federal & Rashmikant for the Petitioners.
Mr. Ashutosh Kumbhakoni, Advocate General with
Ms Geeta Shastri, Addl. GP, for the Respondents.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JULY 04, 2018

P.C:

1. By this petition under Article 226 of the Constitution of India, the petitioners have sought various reliefs. However, what the petitioners are really aggrieved by is an order of 28-9-2017, copy of which is at Exhibit-Z and a Notice of Demand in furtherance thereof, dated 10-11-2017.

2. Though the writ petition was listed under the caption "For Direction" on several occasions in the past, that was to essentially inform the Court whether the issue raised stands covered by two Judgments of this Court, details of which are found in the order of 4-5-2018.

3. Today when the matter was called out, although placed under the same caption, both sides agreed that we can take it up for admission.

4. With their consent, we have taken up this matter for admission.

5. On the basis of the pleadings, today Mr. Dada, learned Senior Counsel appearing for the petitioners, has raised the only contention and namely, that the order passed and impugned in the petition so also the Notice of Demand following the same do not take into account several issues of fact and law. They were specifically raised. One amongst that was that though the Government seeks to apply a latter policy of January, 2017,

that will be inapplicable. On the applicability or otherwise of this policy, there is no satisfactory reasoning rather the Collector did not hear the petitioners on the same at all.

6. Our attention in that regard is also invited to the grounds in the writ petition and particularly the ground "O" and ground "R" to submit that the respondents have not taken into consideration the petitioners' objections in their entirety. The challenge to the policy apart, its applicability is an issue which must be gone into, even according to us.

7. We put it, therefore, to the learned Advocate General, appearing for the respondents, as to whether the impugned order and the Notice of Demand can be withdrawn and an opportunity given to the petitioners to agitate their grievances again, including by pressing the objection with regard to the applicability of the Government Resolution/current policy, as also all other issues which have been highlighted in the pleadings in the petition.

8. Mr. Kumbhakoni, learned Advocate General, was fair

enough to state before the Court that the respondents do not mind withdrawing the impugned order as also the Notice of Demand. All that he would submit is that this Court should not express any opinion on the merits at this stage.

9. In the light of the fair stand of the learned Advocate General appearing for the respondents, we direct that the impugned order dated 28-9-2017 and the Notice of Demand dated 10-11-2017 following it, do not survive and stand quashed and set aside.

10. The Collector, Mumbai Suburban District shall now hear the petitioners afresh and permit them to raise all the contentions. He shall pass a fresh order uninfluenced by any earlier conclusions. However, we clarify that we have not expressed any opinion on the contentions raised by the petitioners nor on the rival pleadings.

11. Let the petitioners appear before the Collector, Mumbai Suburban District, Mumbai/respondent No.2 to this petition, on 16-7-2018 at 10:30 a.m.. He shall pass a fresh order

after the hearing is concluded in accordance with law.

12. The writ petition accordingly stands disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)