

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

WRIT PETITION NO. 9946 OF 2019

Thekedar Kamgar Sangh

.....Petitioner

versus

Maharashtra State Electricity Distribution
Company Limited and Anr.

.....Respondents

Mr. S.S. Pakale a/w Shraddha Chavan i/b M.M. Agavekar, for
the Petitioner.

Mr. Kiran Gandhi i/b Little & Co., for Respondent No.1.

Mrs. M.P. Thakur, AGP for Respondent No.2-State.

**CORAM : RANJIT MORE &
N. J. JAMADAR, JJ.**

DATE : 13th September, 2019.

P. C. :

1 The petitioner is a registered Trade Union. Its members are working with respondent no. 1 through contractors. The petitioner alleges that their members are working through contractors with respondent no.1 since many years. It is also contention of the petitioner that the work they are carrying on is permanent and perennial in nature.

2 The petitioner has approached this Court with a

grievance that respondent no.1 has issued advertisements in the month of July, 2019 for appointment to the post of technicians ('Vidyut-Sahayyak' and 'Upkendra-Sahayyak') initially on contract basis for three years and thereafter against regular posts on consolidated salary. The petitioner has approached this Court on the apprehension that services of its members will be discontinued by respondent no. 1.

3. It is the case of respondent no.1 that the petitioner's members are not regular workers and they are the employees engaged through contractors. The case of respondent no.1 is that now they want to fill-up these posts by regular employees. Respondent no.1 further states that members of the petitioner were not prohibited from participating in selection process and they may apply in pursuance of the said advertisement and compete with others.

4. Mr. Pakale, learned counsel for the petitioner submitted that the petitioner will approach the appropriate authority under Section 10 of the Industrial Disputes Act for the various relief including a prayer to declare that contracts between the petitioner's members and contractors are sham

and bogus and, in fact, the petitioner's members are the employees / workers of respondent no.1.

5. In the light of above, Mr. Pakale, learned counsel for the petitioner seeks leave to withdraw the petition with liberty to approach the appropriate authority under Section 10 of the Industrial Disputes Act. Leave with liberty as prayed for is granted.

6. In the event, the petitioner adopts the remedy as referred to above, the decision on the same shall be taken by the appropriate authority expeditiously.

7. This order should not be construed as an expression of any opinion on the merits of the matter and the decision on the said representation shall be taken on its own merits and strictly in accordance with law.

8. The recruitment process initiated by respondent no.1 in pursuance of the impugned advertisement shall subject to the final outcome of the decision of the appropriate authority or Tribunal, as the case may be. The petitioner is also entitled to

make an application for interim relief before the Industrial Tribunal.

9. Subject to above, the petition is dismissed.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]