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

PUBLIC INTEREST LITIGATION (LODG.) NO. 4 OF 2019

Mr. Datta Shrirang Mane

... Petitioner.

V/s.

BEST Workers Union and Ors.

... Respondents.

with

NOTICE OF MOTION (ST.) No. 19 of 2019

in

PUBLIC INTEREST LITIGATION (LODG.) NO. 4 OF 2019

Mr. Datta Shrirang Mane

... Applicant.

V/s.

BEST Workers Union and Ors. (RES)

and Aamchi Mumbai Aamchi Best and Anr.

... Respondents.

with

CHAMBER SUMMONS (ST.) NO. 24 OF 2019

in

PUBLIC INTEREST LITIGATION (LODG.) NO. 4 OF 2019

Mr. Datta Shrirang Mane

... Applicant

V/s.

BEST Workers Union and Ors.

and All India Trade Union Congress and 3 Ors.

... Respondents.

Mr. Datta S. Mane, Petitioner-in-person.

Ms. Neeta Karnik for Respondent No.1.

Mr. Ashutosh Kumbhakoni, Advocate General a/w. Ms. Geeta R. Shastri, Addl.Govt. Pleader for the State.

Mr. A.Y. Sakhare, Senior Advocate a/w. Mr. J.J. Xavier, Ms. Shweta Modle, Mr. H.C. Pimple for MCGM.

Mr. M.P.S. Rao, Senior Advocate a/w. Mr. Aseem Naphade, S.D. Shetty, Mr. Ravin Kini and Mr. Arsh Misra i/b. M.V. Kini & Co. for BEST.

Ms. Gayatri Singh, Senior Advocate i/b. Kranti L.C. For Intervener in CHWL 24/19.

Mr. Mihir Desai, Senior Advocate a/w. Ms. Lara Jesani i/b. Mihir Joshi for the Applicant in NMWL 19/19.

***CORAM : NARESH H. PATIL, C.J. &
N.M. JAMDAR, J.***

DATE : 16 JANUARY, 2019.

P.C. :-

We have heard the learned Counsel appearing for the respective parties.

2. The learned Counsel appearing for the Respondent – Union, on the instructions of the responsible office bearers, submitted that the Union members have deliberated upon the report submitted by the High Power Committee and discussions which have taken place in the Court on the last dates. The learned Counsel submitted that it would be advisable, as an interim measure, to grant relief of fifteen steps increment instead of ten offered to be given to the employees, without prejudice to their rights.

3. Mr. Rao, learned Senior Counsel for the BEST Undertaking submitted that the proposal of interim measure of 10 steps increment is a goodwill gesture from the employer towards the employees but it has financial implications and due to which the BEST Undertaking will have to make arrangement for Rs. 80 crores. The learned Counsel submits that as both the parties having agreed for Mediation, the demand in respect of the increments be left open for the consideration of the Mediator, except the one which the employer has agreed i.e. grant of ten steps increments. Mr. Rao submitted that all the issues/points/demands raised by the parties before this Court may be referred to a Mediator, but the same would happen if the strike is immediately withdrawn, which is causing lot of inconvenience to the general public and due to which the BEST Undertaking is suffering financially and otherwise.

4. Ms. Karnik, the learned Counsel appearing for the Union submits that the Union too is aware of the inconvenience caused. They have no intention to cause inconvenience to the general public but their demand is not looked into since last three years, therefore the extreme step for going on strike was taken. The learned Counsel, on instructions submitted, the issues could be resolved by discussing across the table having a dialogue in a congenial atmosphere.

5. Both the learned Counsel therefore submitted that a Mediator be nominated/appointed, who would deal with the issues raised by both the sides and submit his opinion accordingly. The learned Counsel also agreed that the issue in respect of the increment be taken up first on the Agenda of the Mediator.

6. The learned Senior Advocate Mr. Sakhare appearing for the Bombay Municipal Corporation submits that if the issue is resolved amicably with the intervention of the Mediator, the Corporation has no objection to exercise such option, as the Corporation feels that essential services of BEST Undertaking shall not get disrupted in any way so as to cause inconvenience to the general public. Mr. Sakhare submits that as and when the Mediator starts functioning, the Corporation would put up its stand before the Mediator in respect of the issues which refers to the involvement of the Corporation.

7. The learned Counsel for the parties informs us that Justice F.I. Rebello, the Retired Chief Justice of Allahabad High Court, has agreed to mediate. We request Mr. Justice F.I. Rebello to act as a Mediator.

8. With the consent of the parties, the following broad issues are referred to the learned Mediator :-

(a) The demand of the Union for ten steps increments over and above the ten steps agreed by the BEST Undertaking.

(b) Merger of the Budget 'C' of BEST Undertaking with the Budget 'A' of the Corporation.

(c) The entire charter of demands already submitted by the Union to the BEST Undertaking.

(d) Implementation of efficiency measures by the BEST Undertaking including running of wet-lease and electrical buses in the city of Mumbai.

9. The learned Mediator is requested to take up the issue as regards the 'steps / increments' on priority and opine on the same at the earliest, preferably within six weeks.

10. It is clarified that the reference to Mediator is without prejudice to the rights and contentions of all the parties.

11. The BEST Undertaking agrees that the benefit of 10 steps increments would be granted to the employees with effect from 1 January 2019.

12. The learned Counsel appearing for the Respondent – Union, on instructions of the responsible officer of the Union makes a statement that in view of the above stated arrangement, the strike will be withdrawn by the BEST Undertaking employees by making an appropriate declaration by today afternoon.

13. We expect that all the parties to create a congenial and cordial atmosphere so that the mediation starts at the earliest and culminates as early as possible. As a Forum has been now created with the consent of the parties for raising their issues, we expect the parties to get the issues resolved amicably.

14. We hope and expect that the mediation would be completed finally by the learned Mediator at the earliest, within a period of three months. Needless to state that the BEST Undertaking and the BMC will render all the necessary infrastructural assistance to the learned Mediator. The Mediator's report be submitted to this Court, through the Prothonotary and Senior Master, High Court, Original Side, Bombay. Registry to accept the Mediator's Report.

15. In view of the above arrangement, the High Power Committee constituted by the State on the directions issued by this Court, stands dissolved.

16. We appreciate the intervention of the High Power Committee and the promptness of submission of its report to this Court. We also appreciate co-operation extended by all the learned Counsel during the proceedings throughout. We also appreciate the contribution of Mr. Datta Mane, Advocate who as a party-in-person presented this Petition for consideration of this Court.

17. Before parting, we feel it necessary to observe that the State, the Municipal Corporation must be geared up and should have a back-up plan to avoid inconvenience to the millions of residents of City, when disruption of the essential services take place. Mr. Kumbhakoni, the learned Advocate General and Mr. Sakhare, the learned Senior Advocate submit that an endeavour will be made to have a back-up plan in place.

18. With these directions, the PIL is disposed of.

19. The pending Chamber Summons and the Notice of Motion also stand disposed of.

N.M. JAMDAR, J.

CHIEF JUSTICE