

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2175 OF 2019**

Sai Warehousing .. Petitioner
Vs.
Goods Transport Labour Board and ors. .. Respondents

**WITH
WRIT PETITION NO. 2342 OF 2019**

Chandrakant Mahamulkar .. Petitioner
Vs.
Goods Transport Labour Board and ors. .. Respondents

Mr.Vaibhav Jagdale, for Petitioner in WP/2175/2019.
Ms.Pavitra Mahesh, for Petitioner in WP/2342/2019 & For
Respondent No.2 in WP/2175/2019.
Mr.B.S.Mahamulkar, for Respondent No.1 in both Petitions.
Mr.Rahul Oak, for Respondent No.4 in both Petitions.
Ms.M.S.Srivastava, AGP for State.

**CORAM : NITIN JAMDAR &
M. S. KARNIK, JJ.**

DATE : 2 MARCH, 2020

P. C. :

. Both these Petitions challenge the same impugned order,
therefore are disposed of by this common order.

2. By the order dated 30th October 2018, the Respondent – Goods Transport Labour Board, Greater Mumbai has directed the Employer -Sai Warehousing to employ Mathadi workers of Toli No. 3106.

3. The Writ Petition No. 2175 of 2009 is filed by the Employer – Sai Warehousing challenging this order on the ground that already another toli No. 2385 is working with it and the Employer was not heard. The Writ Petition No. 2342 of 2019 is filed by Mukadam of Toli No. 2385 making the same grievance.

4. The learned Counsel for the Respondent in Toli No. 3106 submits that the impugned order has been given effect to and members of Toli No. 3106 are working on the site. Learned Counsel for the Board states that the issue is now been referred to the State Joint Labour Commissioner who is looking into the same.

5. We find that in the impugned orders, there is no reference to the existence of Toli No. 2385. Obviously therefore Toli No. 2385 was not heard. Before replacing the Toli members, Employer also has not been heard. Since the Toli was being replaced, Toli 2385 and the Employer should have been heard. Since this has not been done, the exercise will have to be carried out afresh after giving an opportunity to both the Petitioners. Since as on today members of Toli No. 3106 are working, we do not wish to disturb that position. We direct the Respondent – Board to hear the concerned and pass fresh orders within

a period of 8 weeks. For that purpose, the order impugned in this Petition will be treated as *prima facie* opinion. In view of this direction, it would not be necessary for the Joint Labour Commissioner to opine on the issue upon hearing the parties. When the order is passed by Board, then further steps as contemplated in law are available to the aggrieved party.

6. With these observations and directions, both Writ Petitions are disposed of.

[M. S. KARNIK, J.]

[NITIN JAMDAR, J.]