

Sayali Upasani

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

WRIT PETITION NO.-2935 OF 2021

Best Workers Union

...Petitioner

Vs.

The Municipal Corporation of Greater
Mumbai and Others

...Respondents

Ms. Neeta Karnik, for Petitioner

Mr. Sudhir Talsania, Senior Counsel, a/w Mr. Vishal
Talsania, Heena Shaikh i/b M.V. Kini and Co., for
Respondent No. 2- BEST.

Mr. R. Y. Sirsikar, for Respondent No. 1- MCGM.

CORAM:- N. J. JAMADAR, J.

DATED:- 26th JUNE, 2023

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) This Petition is directed against an order dated 10th December, 2020, passed by the learned Member, Industrial Court, Mumbai, on an application for interim relief in complaint (ULP) No. 136 of 2020.

3) By the said application, the petitioner-complainant sought to restrain the respondents from issuing work order as per tender notice dated 30th July, 2020, published for hiring of buses on wet lease basis and also from floating any tender for hiring buses on wet lease basis in future till such time the respondents maintained the bus fleet of 3337 phase.

4) The genesis of the complaint is in a memorandum of settlement dated 11th June, 2019, executed between the petitioner-Union and respondent No. 2. Under the said memorandum, the respondent No. 2 agreed to maintain a bus fleet of 3337 self-owned buses and it was further agreed that MCGM-respondent No. 1 shall release the funds to purchase the buses that would be scraped so as to maintain the fleet of 3337 buses.

5) The learned Member, Industrial Court, was of the view that the complainant was not entitled to interim relief as the reliefs prayed for by the complainant had serious ramifications on the public at large. The learned Member further held that Clause 7 of the MoU protected the interest of all the employees of the respondent No. 2.

6) During the course of the submissions, when the matter was listed before the Court on previous dates, a grievance was made that the respondent No. 2 undertaking has not been diligently perusing the release of funds from the respondent No. 1-Corporation to finance the acquisition of buses so as to maintain the fleet of 3337 self owned buses.

7) Mr. Talsaniya, the learned Counsel for the respondent No. 2, has tendered a copy of the communication addressed by the General Manager of the respondent No. 2 undertaking to the Municipal Commissioner, seeking financial assistance of Rs.3419.44/- Crores to the respondent No. 2 for procurement of 2237 buses in a phased manner.

8) Since the complaint is pending before the Industrial Court and the interim relief claimed by the petitioner-complainant can not be entertained in the fashion in which it is sought, it would be appropriate if the complainant places material, including the request made by the respondent No. 2 undertaking to the respondent No. 1- Corporation for release of funds to acquire buses, before the Industrial Court as the memorandum had the imprimatur of the Municipal Corporation as evidenced by the

communication dated 10th June, 2019 (Pg. 19 of the Petition) for consideration at the final adjudication of the complaint.

9) With the aforesaid clarification and liberty the Petition stands disposed.

10) The learned Member Industrial Court is requested to make an endeavor to decide the complaint as expeditiously as possible.

[N. J. JAMADAR, J.]