

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

WRIT PETITION NO.1552 OF 2025

FedEx Express Transportation and Supply

Chain Services India Pvt Ltd.

.....Petitioner

Vs.

Goods Transport Labour Board Mumbai and Ors.

..Respondents

NIKITA
KAILAS
DARADE
Digitally signed by
NIKITA KAILAS
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Mr. J. P. Cama, Senior Advocate, a/w Mr. Avinash Jalisatgi a/w T. R. Yadv a/w Ms. Divya Wadekar for the Petitioner.

Mr. B. S. Mahamulkar for the Respondent Nos. 1 and 2.

Mr. A. C. Bhadang, AGP for the State.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 10th FEBRUARY, 2025

P.C. :-

1. **Issue notice to the Respondents**, returnable on **19th March 2025**. Mr. A C. Bhadang, learned AGP for the State waives service of notice on behalf of the Respondent Nos. 5.

2. Mr. B. S. Mahamulkar, learned counsel waives service of notice on behalf of Respondent Nos. 1 and 2.

3. The Petitioner has prayed for an ad-interim order. The

contention is that the workers have approached the board with a demand of Rs.5,75,45,665/- under Section 13 of the Maharashtra Mathadi, Hamal and other Manual Workers [Regulation of Employment and Welfare] Act, 1869.

4. Section 13 of the Act ~~Reads~~ reads as under:-

“[13. Determination of moneys due from employers and workers.-(1) The Board or such officer as may be specified by it in this behalf may, by order, determine any sum due from any employer or worker under this Act or any scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

(2) The board or such officer, conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), for trying a suit in respect of the following matters, namely:-

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses;

and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the India Penal Code (XLV of 1860).

(3) No order determining the sum due from any employer or worker shall be made under sub-section (1), unless the employer or worker, as the case may be, is given a reasonable opportunity of representing his case.

(4) An order made under this section shall be final and shall not be questioned in any Court.

(5) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.]”

5. The grievance put forth by the Petitioner is that though

a demand of Rs.5,75,45,665/- for the period of February 2011 to December 2021, was made by the Union for which summons were issued to the Management to enter their response, subsequently, the Union, has entered an application seeking Rs,7,64,51,250/- as being the actual amount to be recovered. Yet summons were not issued. The earlier claim or details/data with regard to the demand, has not been withdrawn or replaced by a fresh calculation for arriving at the demand of Rs.7,64,51,250/-.

6. The Union for one Toli moved an application for amendment, Exhibit-38 and the second Toli moved an application for amendment, Exhibit 39. Both the Tolis desired that the earlier calculations were to be ignored and be substituted by the new calculations. Application Exhibit-87 was a request by the Tolis to permit amendment to their original claim application for Rs.5,75,45,665/-. All these three applications have been rejected by Respondent No.2 vide the Impugned order dated 27th November, 2024, for the reason that since the claim of the unpaid amounts are to be determined for the period February 2011 to December 2021, all the parties are at liberty to lead evidence and prove the claim.

7. Considering Section 13 of the Maharashtra Mathadi, Hamal and other Manual Workers [Regulation of Employment and Welfare] Act, 1869, the specified authority has to determine the quantum of money due from an employer and has to conduct an inquiry as is necessary. While conducting such inquiry, powers vested in a Court under the Code of Civil Procedure 1908, for trying a suit in respect of the matters mentioned thereunder, can be exercised. As such, a summons on the demand made by the workers has to be issued to the employer. It is conceded before us that while passing the Impugned order dated 27th November, 2024, Respondent No.2 has referred to the period for recovery and not the amounts as specified by the workers.

8. We are of the view that if the Union wants to replace their earlier lesser demand by giving specific calculations for enhancing the demand, leave to amend should have been granted. With such amendment, the Union would have been able to place on record the calculations which would be posed to the Management for its response and evidence could have been led by the parties for proving their respective stands.

9. Considering the position as discussed above, we deem it appropriate to hear the Union in order to pass orders since the Impugned order, after hearing Union, could be modified or set aside, to ensure that the Union gets the opportunity to place its calculations in support of their enhanced claim before Respondent No.2. Hence, until further orders, Respondents No.2, would adjourn the proceedings pending before it.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)