

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1487 OF 2025
IN
WRIT PETITION NO.16748 OF 2024

Central Railway Track Maintainer

Union & Anr.

....Applicants

In the matter between:

Central Railway Track Maintainer

Union & Anr.

....Petitioners

versus

Union of India Ors.

....Respondents

Mr. Ramesh Ramamurthy a/w Mr. Saikumar Ramamurthy and Ms.
Seema Sorte, Advocate for the Applicants/Petitioners.

Mr. Chandrakant Chavan, Advocate for the Respondent No.1-UOI.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 11th MARCH, 2025

P.C. :-

1. By this Application, the Petitioners desire to amend the
Petition considering the change in circumstances on account of the

subsequent events that have occurred after the Hon'ble Supreme Court passed the first order dated 22nd November, 2024.

2. The learned Advocate for the Petitioner submits that, this Court had passed an extensive order recording reasons as to why the Petitioners category of workman need a representation as a recognised Union. It is further submitted that the interim order of this Court was stayed by the Hon'ble Supreme Court on 22nd November, 2024. Taking advantage of the said order, the Railways, which had earlier accepted the nomination forms of the contesting candidates representing the particular category of workman belonging to the Petitioners-Union, deleted their names from the Ballot Papers and disallowed the said candidates to contest the elections. By a final order dated 12th December, 2024, the Hon'ble Supreme Court accepted the request of the present Petitioners that the High Court be requested to decide the Writ Petition.

3. The Hon'ble Supreme Court recorded in its order that the said request was accepted and the SLP was disposed off. The interim order passed by the High Court was to be treated as modified in terms of the order dated 12th December, 2024. It was

further clarified by the Hon'ble Supreme Court that its interim order has not been vacated. At the same time, the Hon'ble Supreme Court has observed that its order shall not be treated as final and binding as the issue in question is *sub judice* before the High Court.

4. In view of the above, we are called upon by the Hon'ble Supreme Court to decide the Writ Petition.

5. The learned Advocate for the Petitioners submits that when the Petition was filed, the elections were yet to be held. It is further submitted that as the Railways barred the contesting candidates belonging to the Petitioners-Union from contesting the elections, the elections have been held. If this Petition is allowed by this Court, the prayer that the contesting candidates be allowed to contest the elections, would be a non-executable prayer since the elections have already been held. As such, the declaration that the representatives of the Union are entitled to contest the elections, would be a paper declaration and would not do justice to Petitioners-Union in any manner. Hence, the Union prays for liberty to amend the Petition to bring the subsequent events on record, add grounds and prayers for seeking relief in the changed circumstances.

6. The Respondents-Railways has filed an Affidavit-in-Reply, through Shri. Abhishek Paswan, Deputy Chief Personnel Officer (Industrial Relations), Central Railways, dated 17th February, 2025 to oppose the Interim Application. In Paragraph No.3 of the reply, the said Officer submits that this Court should declare that the Petition has become infructuous.

7. We are surprised by this contention. The Hon'ble Supreme Court has called upon the High Court to decide the Writ Petition. The Petitioners desire to amend the Petition considering the changed circumstances on the basis of subsequent events. In this backdrop, the Railways contend that this Court should dispose of the Petition by terming it to be infructuous. This prayer is repeated in not less than three places in Paragraph No.3. It is further stated by Shri. Abhishek Paswan that the Hon'ble Supreme Court has only requested the High Court to decide the Writ Petition without specifying any date. His contention is that there is no urgency in this matter. We find this comment to be unwarranted and inappropriate, when we are called upon to decide the Petition by the order of the Hon'ble Supreme Court.

8. It is further canvassed in the Affidavit-in-Reply that if the amendment is allowed on the basis of the subsequent events, it would change the nature of the cause of action. We find this contention to be fallacious. If this Court is to dismiss this Petition on its merits, it is a different situation altogether. However, on merits, if this Court allows the Petition, it will have to be held that the Petitioners-Union Members were entitled to contest the elections. This declaration would be purely a paper arrangement since the elections have been conducted by the railways after the Hon'ble Supreme Court passed an interim order on 22nd November, 2024 staying the interim order of this Court. The question will be as to how can the grievance of the Petitioners be redressed, if the amendment is disallowed, despite the subsequent events.

9. In our view, the balance of convenience would lie in favour of the Petitioners. Per contra, no prejudice would be caused to the Railways since the election will have to be scrutinised subject to the averments of the Petitioners and the reply of the Railways, due to changed circumstances based on subsequent events. The Railways can be granted an opportunity to file an additional

Affidavit-in-Reply to meet the amended portion in the Petition and only thereafter, the matter could be heard on its merits.

10. In view of the above, the Interim Application is allowed. The proposed amendment be carried out on or before 31st March, 2025. Considering the magnitude of the amendment, we direct that a freshly typed amended copy of the memo of the Petition shall be placed on record within the same timeline and a copy be served on the learned Advocate for the Indian Railways/Union of India within the same time.

11. Since the Respondents have not filed its Affidavit-in-Reply, needless to state, they would have the right to file a comprehensive Affidavit-in-Reply to this amended Petition as well, taking into account all the pleadings of the Petitioners, on or before 15th April, 2025 keeping in view that the proposed amendment is already served on the Respondents vide this Interim Application.

12. In deference to the order of the Hon'ble Supreme Court, by consent of the parties, this matter would be listed for a final hearing at admission stage, on **23rd April, 2025** at 2.30 p.m.

13. At this juncture, the learned Advocate for the Petitioners submits that even the elected representative Unions will have to be added as Respondents since the subsequent events pertaining to their elections are now being called in question. The learned Advocate for the Railways submits that an Interim Application should be filed by the Petitioners.

14. Let the Petitioners move an Interim Application for the said purpose and the same would be considered on its merits.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)