

Bombay High Court

Maharashtra State Road Transport ... vs Sangharsh St Kargar Sanghatan And ... on 4 November, 2021

Bench: S.J. Kathawalla, Surendra Pandharinath Tavade

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 21699 OF 2021
Maharashtra State Road Transport Corporation ...
Versus
Sangharsh ST Kargar Sanghathan & Anr. ...

Mr. G.S.Hegde with Ms. P.M.Bhansali, Ms. Rajlaxmi Punjabi, for Petitioner
None for the Respondents.

CORAM : S.J. KATHAWALLA &
SURENDRA P

DATE : 4TH NOVEMBER,
(VACATION C

P.C. :

1. On 3rd November, 2021, this Court passed the following Order :

"1. Not on board. Upon mentioning and making out a case of extreme urgency, taken on board for expedite hearing and passing of urgent orders

2. The above Writ Petition is filed by the Petitioner - Maharashtra State Road Transport Corporation (MSRTC) against the Respondents / Sangharsh ST Kamgar Sanghatana and another inter alia seeking the following relief :

"(a) That this Hon'ble Court be pleased to issue a writ of certiorari or any other writ/direction/order directing the Respondents and all the employees of the Petitioner Corporation to refrain from proceeding with the proposed rally/strike/stoppage of work from midnight of 03.11.2021 PA-Nitin Jagtap 2 / 5 3-WPST-21699-2021-UR.doc and/or thereafter;"

3. The Learned Advocate for the MSTRC has drawn our attention to the order dated 29th October, 2021 passed by the Industrial Court, Mumbai in Complaint (ULP) No.217 of 2021 filed by the MSRTC against the Maharashtra State Transport Kamgar Sanghatana and 26 Others under Items 1, 2 (a), 2(b), 3, 5 and 6 of Schedule III of the MRTU & PULP Act, 1971, restraining the employees of the MSRTC from proceeding with the illegal strike until further orders. By the said Order, a notice is directed to be issued to the Respondent Nos.4 to 27 and the same is made returnable on 15th November, 2021.

4. Despite the aforesaid order, the Respondents have today issued a notice inter alia stating therein that unless a written assurance is given to them by MSRTC that the employees of MSRTC will be treated as employees of the State Government, the employees of the MSRTC will go on an indefinite strike from today midnight of 3rd November, 2021 and will continue the same.

5. MSRTC has therefore moved this Court and have submitted that its employees despite the order dated 29th October, 2021 passed by the Industrial Court, have decided to go on strike which is illegal. It is submitted that this action on behalf of the Respondent - Union is nothing but an attempt to blackmail the MSRTC who are required to run buses to enable members of the public to reach different destinations during the festive season / days.

6. It is submitted that since the Respondent - Union has today at 4.15 p.m. issued a notice that they will be going on strike from midnight of 3rd November, 2021, the MSRTC is left with no time in their hands to move the Industrial Court, Mumbai, whose order is being breached by the Respondent Union and therefore they PA-Nitin Jagtap 3 / 5 3-WPST-21699-2021-UR.doc have no other alternative but to knock the doors of this Court seeking the relief prayed for in the above Writ Petition.

7. In view of the above facts and circumstances and keeping in mind the immense hardship and inconvenience that will be caused to the members of the public who have fixed their travel plans through MSRTC buses during the festive days, we direct the Respondents i.e. all the employees of the MSRTC to refrain from proceeding with the proposed rally/strike/stoppage of work from mid night of 3rd November, 2021 and/or thereafter, until further orders.

8. Stand over to 4th November, 2021 at 11.00 a.m.

9. All concerned to act on an ordinary copy of this order duly authenticated by the Private Secretary / Personal Assistant of this Court."

2. Despite the Respondents being served with the above order, none appear for the Respondents. However, the learned Advocate appearing for MSRTC on instructions states that Respondent No. 1 Union - Sangharsh ST Kargar Sanghatana has agreed to abide by the orders passed by this Court and has not proceeded with the proposed agitation / strike. However, Respondent No. 2 Union - Maharashtra Rajya Kanishth Vetanshreni ST Karmachari Sanghatana led by Shri Ajaykumar Gujjar, has continued with the agitation / strike and has categorically informed MSRTC that they will continue with the agitation / strike. In view thereof, 59 out of 250 depots of MSRTC are currently

non functional and therefore not plying any buses. PA-Nitin Jagtap 4 / 5
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3. In view of the above, we are prima facie satisfied that Respondent No. 2 Union - Maharashtra Rajya Kanishth Vetanshreni ST Karmachari Sanghatana led by Shri Ajaykumar Gujjar is guilty of committing willful breach of not only the Order passed by the Industrial Court, Mumbai dated 29 th October, 2021 but is also guilty of committing willful breach of the Order passed by this Court dated 3 rd November, 2021.

Before taking any stern action against Respondent No. 2 Union - Maharashtra Rajya Kanishth Vetanshreni ST Karmachari Sanghatana, led by Shri Ajaykumar Gujjar, we call upon Shri Ajaykumar Gujjar to file his Affidavit on 5 th November, 2021 at 2.30 p.m. explaining as to why action should not be taken against him for committing willful breach of the order dated 3rd November, 2021 passed by this Court. We further direct Shri Ajaykumar Gujjar to ensure that he as well as the members of the Respondent No. 2 Union - Maharashtra Rajya Kanishth Vetanshreni ST Karmachari Sanghatana led by him, abide by the Order passed by this Court dated 3 rd November, 2021 until further orders. Shri Ajaykumar Gujjar is also directed to remain present before this Court on 5th November, 2021 at 2.30 p.m. along with his Affidavit, failing which the Court shall be constrained to pass necessary orders to ensure his presence before this Court including issuing a warrant of arrest against him.

4. A copy of this Order shall be forthwith served by the learned Advocate appearing for the Petitioners on Shri Ajaykumar Gujjar through all permissible modes of service.

5. All concerned to act on an ordinary copy of this order duly authenticated PA-Nitin Jagtap 5 / 5
3-WPST-21699-2021-UR.doc by the Personal Assistant of this Court.

6. Stand over to 5th November, 2021 at 2.30 p.m.

(SURENDRA P. TAVADE, J.)

(S.J. KATHAWALLA, J.)