

(1996) 03 BOM CK 0027
In the Bombay High Court
Case No : Writ Petition No. 870 of 1996

Maharashtra State Transport Kamgar Sanghatana	APPELLANT
Vs	
Maharashtra State Road Transport Corporation and Others	RESPONDENT

Date of Decision : 26-03-1996

Acts Referred:

Citation : (1996) 3 BomCR 525 : (1996) 73 FLR 1410 : (1997) 1 LLJ 31 : (1996) 2 MhLj 909

Hon'ble Judges : J.K. Chandrashekhara Das, J;G.R. Majithia, J

Bench : Division Bench

Judgement

Majithia, J.—The Petitioner, Maharashtra State Transport Kamgar Sanghatana, has challenged notification dated February 5, 1996 to the extent that a representative of respondent No. 3 has been appointed as non-official Director of the Maharashtra State Road Transport Corporation, in this petition under Article 226 of the Constitution of India.

2. Section 3 of the Road Transport Corporation Act (for brevity "the Act") provides for the establishment of Road Transport Corporation for the whole or any part of the State. Section 5(1) of the Act says that the general superintendence, direction and management of the affairs and business of a corporation constituted u/s 3 shall vest in a Board of Directors. Section 5(2) says that the Board shall consist of a Chairman and such other Directors, being not less than 5 and not more than 17, as the State Government may think fit to appoint. Section 5(4) says that the rules made under the Act shall provide for the representation, both of the Central Government and of the State Government concerned, on the Board of Directors in such proportion as may be agreed to by both the Governments and of appointment by each Government of its own representatives thereto. The State of Maharashtra framed the Maharashtra State Road Transport Corporation Rules 1952, (hereinafter "the Rules"). Sub-Rule (3) (iii) of Rule 3 provided for appointment of Directors from amongst the employees working with the Corporation. The said provision was deleted somewhere in 1989

but was restored by notification No. STC/5282/TRA - 1 dated April 20, 1991 and the provisions as restored read thus :-

"(iii) Two Directors shall be from amongst the representatives of the Maharashtra State Road Transport Corporation Trade Union".

By notification No. STC/5292/1 TRA/1, dated September 2, 1993, the State of Maharashtra appointed two employee Directors on the Board of the Corporation. Out of those two appointees, one represented the petitioner and the other respondent No. 3. The nomination on the Board of Directors was unsuccessfully challenged in this Court in Writ petition No. 4403 of 1993 which was dismissed on January 12, 1994. In the body of the Judgment, this Court observed that there were only two trade unions which are recognised under the Code of Discipline whose representatives have been nominated on the Board of Directors. The petitioner's case is that the State Government is in error in appointing a representative of respondent No. 3 on the Board of Directors. The exception has been taken only on the ground that only a representative or a recognised trade union can be nominated on the Board of Directors.

3. Affidavit-in-reply has been filed by respondent No. 2. It is stated therein that according to Rule 3(iii), it is obligatory for the State Government to take two representatives on the Board of Directors from amongst the trade unions. Respondent No. 2 has nominated a representative each of the petitioner and of respondent No. 3. The rule does not envisage that only a representative of the recognised union can be nominated on the Board of Directors.

4. The precise question requiring consideration is the interpretation of Rule 3(3) (iii) which says that two Directors shall be from amongst the representatives of the Maharashtra State Road Transport Corporation Trade Unions. The rule only provides that two representatives of the Maharashtra State Road Transport Corporation Trade Unions have to be nominated on the Board of Directors. Learned Counsel wants us to read that the trade union as mentioned in this rule means and includes only a recognised trade union. He submits that the petitioner is recognised as a trade union under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, (for short "the MRTU & PULP Act") whereas respondent No. 3 is not so recognised. He further submits that since respondent No. 3 is not a recognised trade union, the State Government could not nominate its representative on the Board of Directors.

5. The submissions are devoid of any merit. The rule has to be given its literal meaning. Something cannot be added to interpret it. The rule only says that representation on the Board of Directors has to be given to the Maharashtra State Road Transport Corporation Trade Unions, and two representatives from amongst the members of those unions have to be nominated on the Board of Directors. If a union falls within the ambit of Maharashtra State Road Transport Corporation Trade Unions its representative can be nominated on the Board of Directors. The rule does not envisage that only a representative of a trade union

recognised under the MRTU & PULP Act has to be nominated and none else.

This is what precisely the State Government has done. The State Government has appointed representatives of two different unions on the Board of Directors of the Corporation to ensure participation of the employees in the management and affairs of the Corporation. No Fault can be found with the action of the State Government.

6. The Writ petition was ordered, to be heard and disposed of with Writ petition No. 2236 of 1995 filed on the original Side of this Court. This writ Petition was heard along with that Writ Petition. However, these petitions are being disposed of by separate judgments to avoid overlapping and inconvenience.

7. For the reasons stated above, the Writ Petition fails and the same is dismissed. Rule is discharged. No order as to costs.