

(2004) 11 GUJ CK 0005
In the Gujarat High Court

Case No : Special Civil Application No's. 3788 of 1985 and 6730, 7075 and 8828 of 1990 and 1666 and 6406 of 1991 alongwith Civil Application No. 3751 of 1996 in SCA No. 3788 of 1985, Civil Application No. 11675 of 2000 in SCA No. 7075 of 1990, Civil Application No

ONGC Labour Union

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 26-11-2004

Acts Referred:

Bombay Police Act, 1951 — Section 63B, 63B(1) , 63B(10), 63B(11), 63B(2)
Constitution of India, 1950 — Article 14, 16, 226, 320, 39D
Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A
Industrial Disputes Act, 1947 — Section 10(1)
Mines Act, 1952 — Section 2(1)

Citation : (2004) 102 FLR 461 : (2005) 3 GLR 1941

Hon'ble Judges : R.M. Doshit, J

Bench : Single Bench

Advocate : N.R. Shahani, for the Appellant; K.N. Thakar and K.B. Naik for Trivedi and Gupta for Respondent Nos. 1-3 and Mita Panchal, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

R.M. Doshit, J.—This group of petitions have been preferred by the ONGC Labour Union (hereinafter referred to as "the Union") under Article 226 of the Constitution of India. The petitions are preferred for the benefit of some 500 members of Gram Rakshak Dal (hereinafter referred to as "the Gram Dal") who have been assigned the duties of security guard for the purpose of protection of oil wells situated at different sites in Mehsana district under the Project Manager, Oil & Natural Gas Commission [now a body corporate known as Oil & Natural Gas Corporation Limited (hereinafter referred to as "the Corporation")].

2. The Union has claimed that the Gram Dal Jawans engaged as security guard as aforesaid should be treated as the employees of the Corporation and be given

the status and consequential reliefs as such.

3. In Special Civil Application No. 6406/1991 the Union has also prayed for an enquiry u/s 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act of 1952"). In the alternative the Union has prayed for parity of pay with the security guards employed by the Corporation under Articles 14, 16 and 39(D) of the Constitution of India. In the alternative the Union has prayed for payment of minimum wages as determined by the State Government from time to time. In the alternative the Union has prayed for a direction to the Union of India to make a reference u/s 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act of 1947") with respect to the aforesaid demands raised by the Union.

4. Learned advocate Mr.Sahani has appeared for the Union and has taken me through the records of the above petitions. Mr.Sahani has submitted that in the year 1982 or thereabout there was an astounding rise in the oil pilferage and the instances of setting fire to such sites. These incidents required the Corporation to engage large number of guards to protect the oil wells, the pumping stations, the pipelines and to prevent pilferage. The Corporation, therefore, requested for police protection for the aforesaid purpose. The police authority, however, was unable to provide sufficient security required by the Corporation. Ultimately, with the intervention of the State Government the concerned police officer agreed to deploy members of the Gram Dal for such security services. It was pursuant to the said agreement that the members of the Gram Dal (the beneficiaries of these petitions) were engaged by the Corporation for the aforesaid security services. Mr.Sahani has submitted that the Corporation resorts to various sources for appointment of security guards. Such sources are : (1) the security guards employed by the Corporation; (2) employment of members of the Central Industrial Security Force; (3) security guards employed through security agencies (contract labour); (4) security guards employed through villages sarpanch (contract labour); and (5) employment of members of the Gram Dal. Mr.Sahani has submitted that these petitions are confined to the members of the Gram Dal who are engaged as security guards at various well sites. He has submitted that such security men are paid allowance as determined by the State Government from time to time. Initially, such allowance was Rs. 8=00 per day. It was gradually increased to Rs. 15=00; Rs. 22=00 and Rs. 31=00. The said allowance is far less than the minimum wages determined by the State Government and is nowhere within the comparable range with the wages and allowances paid by the Corporation to the security guards employed by it or paid to the members of Central Industrial Security Force or paid to the security men engaged through the labour contractor. He has submitted that these members of the Gram Dal have been engaged as security guard since the year 1982 and have been continuously serving as such till the date. By passage of time they have acquired the status as the employees of the Corporation and have a right to be regularised as the employees of the Corporation. These security guards are, therefore, required to be conferred the status of the employees of the

Corporation and be given the benefit of regular pay-scale and other service benefits. They are entitled to continue in service as security guards till they attain the age of superannuation as per the service regulations of the Corporation and to other fringe benefits. He has submitted that these security guards are working under the control of the Corporation; their presence is recorded by the Corporation and their wages are also paid by the Corporation. For all practical purposes the Corporation has an overall control over the services of these security guards. The Corporation is not justified in not extending the benefits of regular service/permanent service to these security guards. He has submitted that in absence of any rule or statutory provision to the contrary the service of these security guards is discontinued on their reaching the age of 50 years. In other words, these security guards are not permitted to discharge their duties till they reach the age of superannuation. The service of these security guards is interchangeable with the other guards employed by the Corporation. Their postings and transfers are regulated by the Corporation. Mr.Sahani has submitted that the Corporation is, under the provisions of the Act of 1952, obliged to deduct the amount of provident fund from the wages of these security guards and to deposit the same with the provident fund authorities. The Corporation, however, has failed to perform its duty under the Act of 1952. An enquiry u/s 7A of the Act of 1952 is, therefore, imperative. He has submitted that the Union had raised an industrial dispute in connection with the aforesaid demands. The Conciliation Officer submitted a "failure report". On receipt of the failure report, the appropriate Government was under a bounden duty to refer the dispute to the Tribunal u/s 10(1) of the Act of 1947. However, the appropriate Government, by its impugned communication dated 28th November, 1984, opined that, "there is no relation between the Oil & Natural Gas Commission and concerned employees". Consequently, the appropriate Government refused to refer the matter to the Tribunal for adjudication of the dispute raised by the Union. He has submitted that the approach of the appropriate Government is deprecable. The contentious issue whether there was a master and servant relationship between the Corporation and these security guards could not have been decided by the appropriate Government and was required to be referred to the Tribunal u/s 10(1) of the Act of 1947. Mr.Sahani has relied upon the judgment of the Punjab and Haryana High Court in the matter of Food Corporation of India v. The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court and Anr. [1986(1) SLR 641] and the judgment of the Hon''ble Supreme Court in the matter of State of West Bengal and Others Vs. Pantha Chatterjee and Others,

5. The petitions are contested by the learned advocates Mr.Thakar and Ms.Panchal. Mr.Thakar has denied that there ever existed master and servant relationship between the Corporation and these security guards. He has submitted that as culled from the correspondence produced on the records of Special Civil Application No. 3788/1985, on account of rise in the incidents of pilferage and fire there was an imminent necessity for employment of security

guards. Until the Corporation made permanent arrangement of recruitment and appointment of security guards through its own selection procedure or through the Central Industrial Security Force the District Superintendent of Police was requested to make security arrangements. As the District Superintendent of Police was unable to deploy sufficient number of police personnel for such security duties, it agreed to deploy members of the Gram Dal. Pursuant to the said agreement, the members of the Gram Dal were assigned security duties at various well sites by the District Superintendent of Police. It was the District Superintendent of Police who assigned the duties by rotation. He has, therefore, denied that the concerned security guards had served as such continuously since the year 1982. He has submitted that the duties were assigned to such security guards by the District Superintendent of Police and their presence was also marked by the District Superintendent of Police. The Corporation only supervises the sites to ensure that sufficient members of the Gram Dal were deployed at the concerned sites. Neither the Corporation had any power to select the members of the Gram Dal; to assign duties to them or to exercise disciplinary control over the said members of the Gram Dal. The Corporation reimburses the District Superintendent of Police for the cost incurred by him. He has submitted that no master and servant relationship existed or created between the Corporation and the said security guards. He has submitted that the employment in the Corporation can be made in accordance with its service regulations. The service regulations of the Corporation provide for a minimum qualification, specific physical fitness and the procedure for selection and recruitment. The members of the Gram Dal are not required to possess such qualifications as are required for the employment in the Corporation. They are not recruited through the set procedure nor they are subjected to medical examination. Hence, in any view of the matter, the said security guards cannot be inducted in the service of the Corporation. He has submitted that long service rendered prior to the date of the petitions and pending these petitions also should not confer any right of employment upon the said security guards. He has submitted that there are several security guards who are employed by the Corporation in accordance with its regulations. In case these members of the Gram Dal are conferred the status of the employees of the Corporation, irrespective of their eligibility and source of recruitment, the rights of the employees of the Corporation appointed in accordance with its service regulations shall be adversely affected. Such an action would be violative of Articles 14 and 16 of the Constitution of India. In support of his argument, he has relied upon the judgments of the Hon''ble Supreme Court in the matters of *E. Ramakrishnan and Others Vs. State of Kerala and Others*, of *State of U.P. and Others Vs. Raj Karan Singh*, of *Dr. Arundhati Ajit Pargaonkar v. State of Maharashtra and Ors.* [1994 (3) SCC 380]; of *Utkal University and Another Vs. Jyotirmayee Nayak and Others*, and of this Court in the matters of *Vithalbhai Babaldas Patel Vs. Chairman, Oil and Natural Gas Commission and Others*, and of *Harish C. Brahmbhatt v. Oil & Natural Gas Commission* [Special Civil Application No. 2235/1986 decided on 23rd December, 2003 Coram: P.B.Majmudar,J.].

6. Learned advocate Ms.Panchal has submitted that the Gram Rakshak Dal is formed by the District Superintendent of Police under the powers conferred upon him by Section 63B of the Bombay Police Act, 1951 (hereinafter referred to as "the Act of 1951"). She has submitted that under the powers conferred by the said section the State Government has determined the duties and responsibilities of the members of the Gram Dal. She has submitted that the very purpose of forming the Gram Dal is to create a force at the local level with a specific purpose of protection of the person and property of the villagers. It is supposed to be a volunteer service by village people and does not amount to employment either as a police force or the employment of a person whose property or person is required to be protected. She has submitted that the members of the Gram Dal are not prevented from taking up any employment or carrying on any other activity to earn their livelihood. She has submitted that the concerned police authority has made affidavit to the effect that the members of the Gram Rakshak Dal are selected by the District Superintendent of Police in accordance with the provisions made in Section 63B of the Act of 1951. The assignment of duty is made by the District Superintendent of Police by rotation so that all the members of the Gram Dal have opportunity to render such volunteer service. For the volunteer service by such members they are allowed allowance as determined by the State Government from time to time; their presence is recorded and maintained by the District Superintendent of Police; they are paid allowance in accordance with their presence. The expenses incurred on such allowance are recovered from the Corporation. She has submitted that if the members of the Gram Rakshak Dal are held to be the employees of the Corporation, the very purpose of Gram Rakshak Dal would be defeated. Such an action would be contrary to Section 63B of the Act of 1951. She has submitted that it is the District Superintendent of Police who is empowered to select, recruit and exercise disciplinary authority over the members of the Gram Rakshak Dal. Hence, the claim of the Union to absorb the members of the Gram Dal in service of the Corporation or to declare such members of the Gram Dal as the employees of the Corporation is contrary to the aforesaid statutory provisions. It, therefore, requires to be rejected.

7. In the matter of Food Corporation of India (supra), the petitioner Food Corporation of India had availed of the services of the volunteers of Home Guard on deputation. Such volunteers, while on deputation with the petitioner Corporation, sought regularisation of their services with the Corporation. In reference before the Industrial Tribunal the demand made by such volunteers was accepted. The petitioner Corporation was directed to regularise their service. Before the High Court the petitioner Food Corporation of India agreed that, "...the service of such volunteers would only be terminated in accordance with law, that till their services are terminated, they for all intents and purposes would be treated at par with the regular employees (watchmen) of the Corporation and that these workmen would get all the fringe benefits which the regular employees were getting." In view of the said statement the award of the

Tribunal was modified to that effect by the High Court.

8. In the matter of State of W.B. and Ors. (supra), a similar question of parity in connection with the Border Wing Home Guards came up for consideration before the Hon'ble Supreme Court. On facts the Court observed that, "...there has been disparity in emoluments and other working conditions, between the part-time BWHG and the BWHG on the permanent staff although both have been deployed for performing the same nature of duties and have been working for the same duration in the same conditions but one of them with and the other without the necessities of the job, facilities and benefits of the service." The claim of BWHG for parity with BSF (Border Security Force) personnel was rejected. But, there being no real distinction between the permanent BWHG and the part-time BWHG, the Hon'ble Supreme Court upheld the decision of the High Court. It is observed that, "...the High Court has rightly come to the conclusion that the so-called part-time Border Wing Home Guards could not be treated differently from the permanent staff of BWHG. They have been rightly accorded parity with them."

9. In the matter of E.Ramakrishnan and others (supra), the petitioners' claim for regularisation in service after officiating for a long period was rejected being contrary to the rules and Article 320 of the Constitution of India.

10. In the matter of State of U.P. and others (supra), similar is the view expressed with respect to the claim for continuance of adhoc appointment of an Assistant Lecturer.

11. In the matter of Dr.Arundhati Ajit Pargaonkar (supra), the Court observed that, "...Eligibility and continuous working for howsoever long period should not be permitted to overreach the law. Requirement of rules of selection through Commission cannot be substituted by humane considerations. Law must take its course. Consequently the appellant was not entitled to claim that she should have been deemed to have been regularised as she had been working without break for nine years."

12. In the matter of Utkal University and Anr. (supra), the claim for parity of pay made by the Library Assistants and Library Attendants appointed on consolidated pay was rejected. It is observed that, "...As regards the direction for payment of salary on a par with the similarly placed employees in the University, we find it difficult to sustain the direction given by the High Court. It is not disputed that the respondents do not have any appointment orders on the basis of which they could claim pay scales or a regular salary."

13. In the matter of Vithalbhai Babaldas Patel (supra), the work-charged unskilled labourers temporarily employed by the Corporation claimed regularisation in service of the Corporation. The claim was rejected by this Court. The Court observed that, "...Regular appointment in organisations like the Commission has to be made in accordance with settled law or Rules or Regulations governing such appointment and the prescribed procedure. All persons eligible to apply for such appointment or post have to be given an equal

opportunity to apply or compete for the post and it is only after considering the comparative merits that selection and appointment to the post can be made...If employment or appointment of temporary or ad hoc appointee is regularised, as observed above, guarantee of equality and equality of opportunity in matters of public employment enshrined in Arts. 14 and 16 of the Constitution would be infringed. Such regularisation would encourage back door appointments denying equality of opportunity to those who are eligible for the post held by ad hoc or temporary appointee. Therefore, even if there are vacancies as contended by the petitioners, they cannot claim that their employment should be regularised merely because they were employed temporarily for specified period. The Commission is under an obligation to make recruitment as provided in the Recruitment Rules and all persons who are eligible for the posts which are vacant must get equal opportunity for competing for the posts, for otherwise, as observed above, Arts. 14 and 16 would be violated."

14. In the matter of Harish C.Brahmbhatt (supra), the petitioners were situated similar to the members of the Gram Dal. Except that, the said writ petitioners were the members of the Home Guards. A similar claim for regularisation in service has been rejected by this Court. It should, however, be noted that by virtue of the interim orders the said writ petitioners were paid wages @ Rs. 150=00 per day as was then prevalent in the Corporation. Both the learned advocates Mr.Thakar and Mr.Sahani have extensively relied upon the said judgment. Mr.Sahani has submitted that in that case no materials were produced before the Court. The Court did record that, "...in the instant case, looking to the material on record, as discussed earlier, it is not possible for me to come to the conclusion that the petitioners were appointed and were discharging duties as employees of the ONGC and, in fact there is nothing to show that identical duty was performed by these petitioners at par with other regularly recruited ONGC employees. In fact, there are some documents from which it is clear that from time to time the Home Guards Department used to send Home Guards to the ONGC." Mr.Sahani has submitted that the relief was refused to the said writ petitioners as factual details were not brought before the Court. In the present case, the petitioner Union and the Corporation have brought relevant materials on the records of the matter to bring home the point that the members of the Gram Dal perform the duty assigned as security guard exclusively. So far as the eligibility is concerned, in view of the long service rendered by the said security guards since the year 1982, the standard of eligibility should be relaxed in favour of the said security guards.

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15. Sub section (1) of Section 63B of the Act of 1951 empowers the District Superintendent to constitute voluntary body called "village defence party" (Gram Rakshak Dal) for any village within his jurisdiction for the protection of persons, the security of property and the public safety in the village. Sub section (2) thereof provides that any person between the age of 20 years and 50 years

residing in the village who, in the opinion of the District Superintendent, is a fit and a proper person, shall be eligible for appointment as a member of such Gram Dal. Sub section (7) thereof provides that members of such Gram Dal shall be under the direction and control of the District Superintendent and shall receive such training, and discharge such duties, as may be determined by the District Superintendent. Sub section (8) thereof provides for the terms and conditions of service to be determined by the District Superintendent with the previous approval of the State Government. Sub section (9) thereof empowers the District Superintendent or any officer appointed under the said Section to call any member of the Gram Dal for training or to discharge duties assigned to such member. Clause (b) of sub Section (10) of the said Section 63B provides that when called for duty the member of the Gram Dal shall have the same powers, privileges and protection as a police officer appointed under the Act of 1951. Sub section (11) thereof provides that a member of the Gram Dal shall not be disqualified from being chosen as, or for being, a member of the Gujarat Legislative Assembly, or any local authority, by reason only of the fact that he is a member of a Gram Dal. The duties and responsibilities of the members of the Gram Dal are determined by the State Government and are placed on the record of the matter.

16. As recorded hereinabove, the purpose for constitution of such Gram Dal is to constitute a force from amongst the residents of the village who can protect the persons and properties of the residents of the village; in case of necessity/crisis such members can assist the police in maintaining law and order. A person who is residing in the village, who is between the age of 20 years and 50 years, who has studied up to IIIrd Standard (Gujarati), who is of good character, can be a member of the Gram Dal. After appointment as a member, such person is required to take training under the supervision of the concerned Police Sub-Inspector. Such training shall be for 15 days which shall include primary squad drill, stick training, physical training, arms drill, first aid, general knowledge of law, etc. Such members are required to perform duties as per the directions issued by the District Superintendent of Police which generally should be: protection of the person and property of the residents of the village; patrolling; maintenance of law and order; prevention of fire and epidemics; prevention of pilferage; to maintain law and order at public functions; to assist the police in investigation; to inform the police about bootlegging, gambling and other anti social activities. Such members are entitled to a daily allowance when called for duty outside the village; they are entitled to receive free medical treatment at Government dispensaries. Such members if are the servants of the Government or panchayats, when called for duty, shall be deemed to be present on duty.

17. From the above it is evident that the Gram Dal is a voluntary organisation. Its members are required to be local residents between the age of 20 years and 50 years who are fit to perform the above referred duties. The eligibility is determined by the District Superintendent/State Government. The selection is made by the District Superintendent. Overall control is of the District

Superintendent. Besides, such members are free to take-up any other employment, public or private. There shall be no prohibition against their pursuing any lawful vocation/occupation in life. They are entitled to receive daily allowance only when they are called for duty. They have also been extended privilege of a police officer when on duty and of free medical treatment at Government dispensaries. Hence, in my opinion, there is no intention to create a master and servant relationship between the District Superintendent/State Government and the members of the Gram Dal. Nor can such member claim a master and servant relationship with the person whose property he is called to protect.

18. The District Superintendent has filed counter affidavit and has specifically asserted that in the present case it is the District Superintendent of Police who maintains attendance register with respect to the members of the Gram Dal who have been called for duty at the well sites of the Corporation. Each member is paid daily allowance computed on the basis of his presence. The expenses incurred on such daily allowance is recovered from the Corporation. It is also stated that whenever a police protection is granted at the request of the private party the cost of such police protection is recovered from such party. It is also stated that the duties are assigned to the members of the Gram Dal in rotation so that every member gets an opportunity to perform such duty. The plea raised by the Union that the members of the Gram Dal are in continuous service guarding the well sites of the Corporation is belied by the fact that the Union has, in Special Civil Application No. 6406/1991, made a specific prayer for direction directing the respondents to "permanently restraining them from giving any rotation or periodical breaks to any security guard or from engaging them through police authorities in any manner whatsoever". Thus, the petitioner Union has conceded that the members of the Gram Dal were assigned guard duty by rotation fortifying the aforesaid statement made by the District Superintendent of Police. If at all pending these petitions the members of the Gram Dal were continued to be assigned guard duty, such continuity shall not create equity in favour of such members.

19. In the counter affidavits made on behalf of the Corporation, it is the specific case of the Corporation that in view of the astounding rise in the incidents of pilferage and sabotage the Corporation was required to make arrangements for extensive security at the well sites and at other places. Until some permanent arrangement was made and in view of the inability of the District Superintendent of Police to spare the required police force, the District Superintendent of Police had agreed to call the members of the Gram Dal for such guard duty. Pursuant to the said agreement, as borne out from the correspondence on record, the members of the Gram Dal came to be called for the guard duty as aforesaid. They were paid the daily allowance as determined by the State Government from time to time. Such cost was recovered from the Corporation. It is further submitted that the appointment of the members of the Gram Dal is made by the District Superintendent of Police under the powers conferred upon him by Section

63B of the Act of 1951 in accordance with the terms and conditions determined by the State Government. It is stated that the selection and recruitment for employment in the Corporation is required to be made in accordance with the service regulations of the Corporation. The said regulations require that the security guard shall have passed VIIIth Standard; shall answer the specific physical requirement of height, chest expansion, etc. and is required to be selected according to the set selection procedure. Neither of the members of the Gram Dal has been subjected to the eligibility or competitive test as is required under the service regulations of the Corporation nor the Corporation exercises disciplinary power over such members. The Corporation only ensures that such members of the Gram Dal who have been assigned guard duty do remain present at the concerned sites and perform the duty as expected of them. The Corporation has produced the statement showing the lump payment made to the District Superintendent of Police to reimburse the cost of the allowance paid to the members of the Gram Dal.

20. In my opinion, neither the Corporation has inducted the members of the Gram Dal in its service as security guard nor there has been a master and servant relationship between the Corporation and such members of the Gram Dal. If the claim of the Union were accepted it would amount to induction of the members of the Gram Dal in the service of the Corporation irrespective of their eligibility and suitability. Such an action would be contrary to the service regulations of the Corporation and would also defeat the purpose of Section 63B of the Act of 1951.

21. The reliance placed by Mr.Sahani on Certified Standing Order dated 2nd April, 1982 is misconceived. The said order which has been made applicable on and from 15th July, 1962 applies to the contingent employees employed in the Corporation i.e. the employees employed by the Corporation through its own procedure and sources. The members of the Gram Dal who have been appointed as such by the District Superintendent of Police in accordance with Section 63B of the Act of 1951 and the terms and conditions determined by the State Government cannot be said to be the contingent employees of the Corporation entitled to the benefit of the aforesaid Standing Order.

22. Mr.Sahani has particularly relied upon the Office Memorandum dated 2nd April, 1982 issued by the Corporation. By the said Office Memorandum the Corporation has issued general directions to its Project Officers, inter alia, not to appoint any one on contingent/work-charged or casual basis without the specific approval of the headquarters. Mr.Sahani has relied upon the correspondence between the Project Officer and the District Superintendent of Police. He has submitted that the conjoint reading of this Office Memorandum and the consequent correspondence between the Project Officer and the District Superintendent of Police, it is evident that with a view to avoiding appointment of contingent security guards an arrangement was made to avail of the service of the members of the Gram Dal. With a view to discontinuing 116 contingent

security guards the aforesaid arrangement was made. In his submission, this was only a paper arrangement and amounts to an unfair labour practice. I am unable to agree with Mr.Sahani. There is nothing on the record that 116 contingent security guards employed by the Corporation were disengaged and were reengaged as the members of the Gram Dal. In absence of a specific averment made in the petition the inference drawn by Mr.Sahani is not warranted. On the contrary, in Special Civil Application No. 6730/1990 a specific averment has been made that 43 of such members were working since 1st June, 1982; one joined on 1st December, 1985 and four others on 1st July, 1988. This shows that none of the said 48 members was employed by the Corporation as contingent security guard prior to the aforesaid Office Memorandum dated 2nd April, 1982.

23. In view of the aforesaid discussion, I am of the opinion that the members of the Gram Rakshak Dal who have been assigned guard duty at the well sites and other places of the Corporation cannot be said to be the servants of the Corporation. Nor can they be conferred the status of the employees of the Corporation without infringing the principle of equality guaranteed under Articles 14 and 16 of the Constitution of India; the relevant service regulations of the Corporation and Section 63B of the Bombay Police Act, 1951.

24. Mr.Sahani has also relied upon the provisions of the Mines Act, 1952 (hereinafter referred to as "the Mines Act"). He has relied upon the definition of "Mines" u/s 2(1)(j) of the Mines Act. He has submitted that undoubtedly the oil wells of the Corporation are the Mines within the meaning of the aforesaid Section 2(1)(j). The members of the Gram Dal, therefore, can be said to be the persons employed in a mine. Such persons are, therefore, required to be given equipment and other facilities under the provisions of the Mines Act. He has also submitted that though the terms and conditions determined by the State Government require that the members of the Gram Dal shall be given uniform, stick, whistle, shoulder badge, etc., such facilities are not extended in the present case. There is no denial to the aforesaid complaint. It should, therefore, be the responsibility of the concerned District Superintendent of Police to extend all facilities assured by the State Government to such members within reasonable time preferably within three months from today.

25. The claim for continuance of such members till they reach the age of superannuation also requires to be rejected. As I have held that the members of the Gram Dal are not the employees of the Corporation, they cannot be regulated by the service regulations of the Corporation. As provided in Section 63B of the Act of 1951, a resident of the village can be a member of the Gram Dal if he is within the age of 20 years and 50 years. The member who attains the age of 50 years cannot be continued as the member of the Gram Dal. Nor can he be called for duty as such. The District Superintendent of Police is, therefore, justified in discontinuing such members who attain the age of 50 years.

26. As to the claim for wages at par with the security guards employed by the Corporation, it should be noted that the members of the Gram Dal are not the

servants of the Corporation nor are they prohibited from taking-up any other employment or from pursuing any other vocation or occupation to earn their livelihood. Nor the duty assigned as the members of the Gram Dal is supposed to be the source of their livelihood. The aforesaid claim for wages at par is, therefore, not sustainable.

27. As to the claim for minimum wages also, it would be required to be ascertained whether individual member of the Gram Dal has been pursuing any other vocation or occupation for his livelihood. In absence of such facts before this Court, the claim for minimum wages cannot be accepted. It should further be noted that individual member of the Gram Dal shall be at liberty to approach the authority under the Minimum Wages Act, 1948 for such wages, if otherwise permissible.

28. As to the prayer with respect to the enquiry u/s 7A of the Act of 1952, as I have held that the members of the Gram Dal are not the servants of the Corporation, such enquiry is not required.

29. In view of the above discussion, subject to the aforesaid directions issued to the District Superintendent of Police and the State Government, all these petitions are dismissed. Rule nisi issued in each petition is discharged. Interim order stands vacated. The Civil Applications stand disposed of. There shall be no order as to cost.

30. Registry shall maintain copy of this judgment in each petition. The writ to the District Superintendent of Police and the State Government shall be issued forthwith.

31. Learned advocate Mr.Sahani requests that the status quo obtaining as on today be maintained for a period of eight weeks. Learned advocate Mr.Thakar has objection.

32. On the facts and in the circumstances of the case, the status quo obtaining as on today with respect to the members of the Gram Dal called for guard duty at the well sites of the Corporation shall be maintained for a period of eight weeks from today subject to the condition that such members are within the age of 20 years and 50 years.