

SUPREME COURT OF INDIA

Maharashtra State Transport Kamgar Sanghathana

Vs.

Maharashtra State Road Transport Corpn.

(S.B. Majmudar and S.N. Phukan JJ.)

11.08.2000

ORDER

1. Leave granted.

2. Having heard learned Counsel for the parties finally in this appeal by their consent, we find that a very small controversy is posed for our consideration.

3. The Constitution of the Board of Directors of respondent No. 1 - Corporation is governed by Clause (iii) of Sub-rule (3) of Rule 3 of the Maharashtra State Road Transport Corporation Rules, 1952. So far as the appointment of the Directors from amongst the employees is concerned, the said provision was earlier deleted in 1989 but was restored by Notification dated 20.4.1991. The provision restored reads as under:

(iii) two Directors shall be from amongst the representatives of the Maharashtra State Road Transport Corporation Trade Unions.

4. It was the stand of the appellant-Union in the writ petition before the High Court that, as it is a recognised Union under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, ("Act" for short), both the Directors can be appointed from amongst its own members. In the impugned judgment it has been held that literal construction of the aforesaid provision provides for two Directors from amongst the representatives of the Trade Unions and it was not necessary that the Trade Unions shall be recognised Unions as such. In order to fructify the very spirit underlying the representation of the workmen on the Board of Directors, in our view, such type of literal construction would not be in consonance with justice and fairplay when there is a recognised Union under the Act which is at the helm of affairs and would be protecting the interest of the workmen by negotiating with the Management. The Rule should be so interpreted that at least one Director should be from the members of the Trade Union recognised under the Act. So far as the appointment of the second Director is concerned, it is open to the State Government to appoint such Director from the representatives of the remaining registered Trade Unions having

membership of the other employees of the same organisation, though they may not be recognised under the Act. It is clarified that while appointing the second Director, it would be advisable to the State Government to keep in view the maximum number of membership of the other concerned registered Unions so that any further challenge on the ground of arbitrariness of its action can be avoided. This is left to the good sense of the State Government. It may pass appropriate orders in this connection. Subject to these clarifications and modifications the appeal is disposed of.

5. No costs.