

SUPREME COURT OF INDIA

Pepsico (India) Holdings Pvt. Ltd.

Vs.

Grocery Markets & Shops Board & Ors.

C.A.No.10001 of 2010

(Kurian Joseph and R.F.Nariman,JJ.)

04.02.2016

JUDGMENT

KURIAN Joseph, J.

1. The appellant approached this Court aggrieved by the Judgment dated 22.07.2009 passed by the High Court of judicature of Bombay in Writ Petition No. 4 937 of 2009.

2. The dispute pertains to the application of the Scheme framed under the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969.

3. Mr. V. Giri, learned senior counsel appearing for the appellant, has submitted that there was also a challenge with regard to the application of the Act as well. Be that as it may, the High Court, by the impugned Judgment has relegated the appellant to the remedy available under Section 5 of the Act which reads as under :-

"5. Disputes regarding application of scheme - If any question arises whether any scheme applies to any class of unprotected workers or employers, the matter shall be referred to the State Government and the decision of the State Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 14, shall be final."

4. The following are the directions issued by the High Court :-

"(i) The petitioner shall make an application and/or reference to the State Government under section 5 of the Mathadi Act within a period of eight weeks from today.

(ii) The Government shall entertain the said reference and shall decide the same within a period of 12 weeks after giving opportunity to all concerned, namely, the concerned Boards, workers and the Petitioner.

(iii) So far as the workers which have been noted by the Board to be covered under the Scheme are concerned, their services are protected for a period of 12 weeks and the Petitioner shall provide them work and make payment as per the Board directions during the pendency of the reference.

(iv) Petition is accordingly disposed of by making the Rule absolute in the aforesaid terms."

5. In view of the language employed in Section 5, we make it clear that it will be open to the appellant to raise all disputes, whether it be on the factory at Rajangarh or the warehouse at Panvel, to the Government and the Government shall address the same.

6. We give liberty to the appellant a further period of 12 weeks from today to raise the disputes before the Government and the Government shall consider and pass appropriate orders in accordance with law within three months thereafter.

7. Till the orders are passed as above, the interim order passed by this Court on 18.10.2010 shall continue.

8. We also make it clear that we have not considered the appeal on merits and all the contentions available to both the sides are left open.

9. In view of the above, the civil appeal is disposed of with no order as to costs.