

CASE NO.:
Appeal (civil) 5022 of 2006

PETITIONER:
Pune Taximen's Consumer Co-operative Society Ltd.

RESPONDENT:
The Regional Transport Authority, Bombay & Ors.

DATE OF JUDGMENT: 17/11/2006

BENCH:
ARIJIT PASAYAT & LOKESHWAR SINGH PANTA

JUDGMENT:
J U D G M E N T
(Arising out of SLP (C) No.21367 of 2004)

ARIJIT PASAYAT, J.

Leave granted.

Appellant calls in question legality of the judgment in writ petition No. 2207 of 2004 decided on 28.9.2004 by a Division Bench of the Bombay High Court. Respondent No.5, a Society registered under the Trade Unions Act, 1926 (in short the 'Act'), and its members filed the writ petition for a direction to the respondents to implement recommendations made by the sub-committee appointed by Regional Transport Authority (in short the 'RTA') (Respondent No.1). They also prayed that the respondents be directed to implement the Resolution dated 4.2.2004 passed in a meeting under the Chairmanship of respondent No.1-RTA. The High Court noted the undertaking given by the Pune Taximen's Consumer Co-operative Society Ltd. (in short the 'Pune Society'), the present appellant to shift Gala Nos.P-49 to P-52 within a period of two weeks. It directed the RTA to ensure that Resolution No.15 dated 4.2.2004 is fully implemented. Direction was also given to ensure that the recommendation of the sub-committee was implemented fully.

Learned counsel appearing for the Pune Society-present appellant had submitted before the High Court that their appeal was pending before the State Transport Appellate Tribunal (in short the 'STAT').

By the impugned order, the High Court directed the STAT to dispose of the appeal as expeditiously as possible preferably within three months from the date of order. It was stated that the shifting of appellant-Pune Society (Respondent No. 5 before the High Court) to the Gala would be without prejudice to the rights and contentions in the appeal pending before the STAT.

Learned counsel for the appellant submitted that the High Court was totally confused about the issues and the reliefs sought for. The appeal then pending before STAT had nothing to do with the issues involved. Though the Brihan Mumbai Mahanagar Palika (in short 'Mahanagar Palika') was a party before the High Court, it is not clear as to whether the Gala nos. P-49 to P-52 have been handed over. The so-called

concession is without instruction and even otherwise the writ petition could not have been disposed of in the manner done. Even the basic grievances and respective stand have not been discussed.

It appears that the learned counsel appearing for the appellant-Pune Society stated by way of an undertaking before the High Court that shifting to Gala P-49 to P-52 shall be done within a period of two weeks from the date of order. On 25.10.2004 on the basis of the statement made by learned counsel appearing for the appellant, it was observed that the question as to what would happen when Gala was made available to the appellant shall be considered in this appeal. The statement of respondent No.5 (present appellant) that shifting shall be done to Gala P-49 to P-52 within a period of two weeks was really of not much relevance.

The High Court's order seems to be totally confusing. The undertaking by learned counsel appearing for respondent No.5 to act within a particular time was really, as noted above, has no relevance. The Gala Nos. P-49 to P-52 were, according to appellant, to be given by the Brihan Mumbai Municipal Corporation. It is stated by learned counsel for the appellant that Gala Nos.14 to 18 and A2 were to be first allotted by the Mahanagar Palika. The members of the appellant-society had not been given the galas though according to it all conditions were fulfilled. Learned counsel for the State supported the order of the High Court stating that the appellant had been given necessary protection.

It is to be further noted that the dispute before the STAT was totally unconnected with the subject matter of dispute in the writ petition. As the High Court's order is totally confusing and even does not indicate any reason for arriving at various conclusions, it would be appropriate for the High Court to re-hear the matter. It shall consider the respective stand of the parties and pass necessary orders.

The appeal is accordingly disposed of. No costs.