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NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10001 of 2010

PEPSICO (INDIA) HOLDINGS PVT. LTD.

Appella

$$nt(s)$$

VERSUS

GROCERY MARKETS & SHOPS BOARD & ORS.

Respond

ent(s)

J U D G M E N T

KURIAN, 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. 4937 of 2009.

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

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

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Rajni Mukhi
Date: 2016.03.08
17:28:49 IST
Reason:

"5. Disputes regarding application

of scheme - If any question arises whether any scheme applies to any

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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 18.11.2010 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.

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

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

New Delhi;
February 04, 2016.

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ITEM NO.101(P/H)

COURT NO.10

SECTION XV

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Civil Appeal No. 9999/2010

PEPSICO INDIA HOLDING P.LTD.

Appellant(s)

VERSUS

GROCERY MARKETS & SHOPS BOARD & ORS.

Respondent(s)

(with office report)
WITH
C.A. No. 10000/2010
(With Interim Relief and Office Report)

C.A. No. 10001/2010
(With Office Report)

Date : 04/02/2016 These appeals were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. J.P. Cama, Sr. Adv.
 Ms. Kirti Chandra, Adv.
 Mr. Amit Dhingra, Adv.
 Mr. Amandeep Bawa, Adv.

 Mr. V. Giri, Sr. Adv.
 Mr. Divyam Agarwal, Adv.
 Mr. Kunal Mimani, Adv.
 Mr. Dheeraj Nair, Adv.

 M/s. Dua Associates, Adv.

For Respondent(s) Mr. R. Basant, Sr. Adv.
 Mr. Sushil Karanjkar, Adv.
 Mr. K. N. Rai, Adv.

 Mr. Dhruv Mehta, Sr. Adv.
 Mrs. Jayashree Wad, Adv.
 Mr. Ashish Wad, Adv.
 Mr. Jayant B. Shaligram, Adv.
 Ms. Paromita Majumdar, Adv.
 Ms. Jaya Khanna, Adv.

For M/s. J.S. Wad & Co.

 Mr. Jitendra Kumar, Adv.

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 Mr. Sunil M. Chinchwadkar, Adv.
 Mr. Nitin S. Tambwekar, Adv.
 Mr. B.S. Sai, Adv.
 Mr. K. Rajeev, Adv.

 Mr. Nishant Ramakantrao Katneshwarkar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

C.A. Nos. 9999/2010 and 10000/2010

Heard learned senior counsel for the parties at length.
Arguments concluded.
Judgment reserved.

C.A. No. 10001/2010

The appeal is disposed of in terms of the Signed
non-reportable Judgment.

(Rajni Mukhi)
Sr. P.A.

(Renu Diwan)
Court Master

(Signed non-reportable judgment is placed on the file)