

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.13638 of 2014

and

M.P.Nos.1 and 2 of 2014

Unipres India Private Limited Employees Union,
Regn. No.471,
Represented by its Secretary
No.36, Rajiv Gandhi Street, Aayakolathur village,
Thodugadu Post,
Kancheepuram District.

... Petitioner

Vs.

1.The Authority Under the Industrial Establishment
Standing Orders Act
Joint Commissioner of Labour,
DMS Compounds,
Teynampet,
Chennai.

2.The Management of Unipres India Private Limited,
RNS-6, SIPCOT Industrial Growth Center,
Oragadam, Sriperumbudur Taluk,
Kancheepuram District-602 105.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution

of India for issuance of a Writ of Mandamus, directing the first respondent to afford reasonable opportunity to the petitioner to file its objections to the Draft Standing Orders and hear the parties before proceeding any further with regard to certification of the Draft Standing Orders in proceedings bearing Ref.No.AA4522/2013 dated 31.10.2013.

For Petitioner : Mr.K.Sudalaikannu

For Respondents : Mr.M.S.Ramesh (for R1)
Additional Government Pleader

Mr.AR.L.Sundaresan, Senior Counsel
for Mr.R.Prabhakaran (for R2)

ORDER

The petitioner submits that the petitioner is a Trade Union duly registered under the Trade Unions Act. The petitioner is aggrieved by the order of the first respondent in his proceedings bearing Ref.No.AA/4522/2013 dated 30.04.2014 proceeding with the process of certification of draft standing orders submitted by the second respondent management without affording reasonable opportunity to the petitioner to make its objections in the draft standing order submitted by the first respondent. He submits that the second respondent is a company registered under the Indian Companies Act and is engaged in the business of manufacturing Automobile

Components. The second respondent has a factory at RNS-6, SIPCOT Industrial Growth Center, Oragadam, Sriperumbudur Taluk, Kancheepuram District. In the said factory more than 280 workers are employed. He submits that all the workers of the said factory are members of the petitioner union. The petitioner union is the only union operating in the factory of the second respondent and is a recognized union.

2. The petitioner further submits that the second respondent management by its letter dated 25.10.2013 submitted a draft standing order for certification under the provisions of the Industrial Establishment Standing Orders Act. Thereafter, the first respondent by its letter dated 31.10.2013 asked the petitioner to submit its objections if any within 15 days from the date of receipt of the letter. They had been appearing before the first respondent in the proceedings and the same was adjourned to 08.01.2014. He submits that since the clauses included in the draft standing orders are complicated and the workers wanted to get legal opinion and also wanted the union to be represented by a legal professional. The draft Standing Orders submitted by the management is not in conformity with the model standing orders. Therefore, they engaged a lawyer to

put forth their objections on 09.04.2014. He submits that they were advised by their counsel to have discussion with all the workers and analyze the possibilities and practical difficulties with regard to the draft standing orders apart from its legality. Therefore, a month time was sought by the petitioner. However, the proceedings were adjourned to 16.04.2014, 23.04.2014 and thereafter to 30.04.2014.

3. The petitioner further submits that on 30.04.2014, the petitioner sought the first respondent to defer the aforesaid proceedings by two weeks in view of the fact that workers are put on shift basis and therefore all the workers could not be organized to have a discussion and take a final decision with regard to the draft standing orders submitted by the management expressing the practical difficulties in taking a decision in a short span of time when the entire force is required by the second respondent to work on shift basis and a petition for adjournment was filed on their behalf to that effect stating the above reasons. However, the first respondent did not entertain the request of the petitioner and passed an order to process the draft standing orders for certification.

4. The petitioner further submits that the first respondent failed

to afford reasonable opportunity to the petitioner to put forth its legal objections in writing as well as orally and had in an undue haste proceeded to proceed with certification of the draft standing orders submitted by the second respondent. Therefore, the order of the second respondent is vitiated on the ground of violation of Principles of Natural Justice. The first respondent should have seen that no prejudice would have been caused to the second respondent in adjourning the proceedings by two weeks. He submits that they have not been afforded reasonable opportunity to submit their objections in writing as well as orally. He submits that they will be put to irreparable loss and hardship if the first respondent certifies the draft standing orders without hearing them. He submits that no other alternative efficacious remedy is available to the petitioner except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. Hence, the writ petition.

5. The highly competent counsel Mr.K.Sudalaikannu appearing for the petitioner submits that the petitioner is a trade union and it has been registered under the Trade Unions Act. The first respondent, without giving sufficient opportunity to the petitioner to make his objection, passed the draft Standing Order submitted by the second

respondent herein / Management. The petitioner's Union is a recognized union by the second respondent. The second respondent submitted a draft Standing Order for certification under the provisions of the Industrial Establishment Standing Orders Act. Thereafter, the first respondent, by its letter dated 31.10.2013, directed the petitioner to submit its objections, if any, within a period of 15 days from the date of receipt of this letter. They had appeared before the first respondent in the said proceedings and the same was adjourned to 08.01.2014.

6. The very competent counsel further submits that the clauses included in the draft Standing Orders are complicated. The draft standing orders submitted by the management is not in conformity with the model standing orders. The petitioner engaged a lawyer to put forth their objections on 09.04.2014. Hence, sufficient time was sought. However, the proceedings were adjourned on three occasions. The first respondent had not given sufficient time to the petitioner and passed one order to process the draft standing orders for certification. Hence, the learned counsel entreats the Court to give an opportunity to the petitioner.

7. The highly competent Additional Government Pleader Mr.M.S.Ramesh, appearing for the first respondent submits that the first respondent had issued a communication dated 31.10.2013 to the petitioner and asked them to submit their objection within a period of 15 days. However, the petitioner had not extended their cooperation to decide the issue on merits even after adjournment of the matter on four occasions. As such, sufficient opportunity was given to the petitioner. However, the draft standing orders had been properly decided. Hence, the petition is not maintainable.

8. The very competent counsel Mr.A.R.L.Sundaresan, Senior Counsel appearing for the second respondent submits that the management had sent a letter dated 25.10.2013 to the first respondent and requested them to certify the draft standing orders. However, the first respondent, after considering all aspects decided the matter. Therefore, the matter has been concluded.

9. Per contra, the very competent counsel Mr.K.Sudalaikannu submits that the petitioner had submitted a letter dated 02.04.2014 to the first respondent and requested for time to give their objections after receiving legal opinion from their lawyer. Again, the work force

had submitted a letter dated 05.04.2014 and made objections stating that several clauses in the draft standing orders run against the Industrial Dispute Act. The same was not considered.

10. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed set of papers, this Court is of the view that the draft standing orders had been framed in the interest of the management and work force. As such, the Union had so far not submitted their views after getting legal opinion from their lawyer. Therefore, this Court is inclined to give one more opportunity to the Union to submit their objections, if any. If the petitioner's Union is permitted to file their objections, the management would not be prejudiced. Hence, this Court directs the first respondent / Joint Commissioner of Labour to grant sufficient opportunity to the petitioner to file its objections to the draft standing orders and hear the parties before proceeding any further with regard to certification of the draft standing orders in proceedings bearing Ref.No.AA/4522/2013 dated 31.10.2013, within a period of three months from the date of receipt of this order.

11. In the result, the writ petition is allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

08.07.2015

vs

Index: Yes.
Internet: Yes.

To

The Authority Under the Industrial Establishment
Standing Orders Act
Joint Commissioner of Labour,
DMS Compounds,
Teynampet,
Chennai.

C.S.KARNAN, J.

VS

**W.P.No.13638 of 2014
and
M.P.Nos.1 and 2 of 2014**

08.07.2015