

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.16047 of 2015

1 K.Udhayakumar

2 N.Sathishkumar

3 V.Jayakumar

4 E.Prakash

5 P.S.Baskaran

[PETITIONERS]

Vs

1 The State of Tamil Nadu
Rep. by its Secretary
Labour Welfare Department
Secretariat, Chennai-9.

2 The Deputy Commissioner of Labour
Labour Welfare Department
Teynampet, Chennai-6.

3 The Conciliation Officer /
Assistant Commissioner of Labour
Labour Welfare Department
Irrunkattukottai
Sriperumbudur, Kancheepuram District.

4 M/s. FIH India Pvt. Limited
formerly known as FOXCONN India Pvt. Ltd
rep. by its Authorized Signatory/
Head of Human Resources Department
Reg.Office at SIPCOT Hi-Tech SEZ
SIPCOT Industrial Park Phase II,
Chennai/Bangalore National Highway (NH-4)
Sriperumbudur-602105.
Kancheepuram District

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus Forbearing the respondents 1 to 3 from granting permission or approving the closure of 4th respondent company namely M/s.FIH India Pvt. Limited Formerly known as FOXCONN India Pvt.Ltd. at Sipcot Hi-Tech SEZ Sipcot Industrial Park Phase II, Chennai/Bangalore National Highway (NH-4) Sirperumbudur-602 105, Kancheepuram District, consequently directing the 3rd respondent to decide the application of the petitioners dated 13.05.2015.

For Petitioners : Mr.M.R.Jothimanian

For Respondents : Mr.R.Rajeswaran 1 to 3
Spl. Govt. Pleader
Mr.S.Ravindran - R4

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.M.R.Jothimanian, learned Counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.S.Ravindran, learned counsel appearing for fourth respondent.

3.The petitioners who are employees of the fourth respondent Company have filed this Writ Petition praying for issuance of writ of mandamus to forbear the respondents 1 to 3 from granting permission by approving the closure of the fourth respondent company and to consequently direct the third respondent to decide the application of the petitioners dated 13.5.2015.

4.As admitted by the learned counsel for the petitioners as well as the learned counsel for the fourth respondent Management, the application made by the petitioners dated 13.5.2015 has been decided and an order has been passed by the third respondent on 12.10.2015. The learned counsel for the petitioners submits that as against the said order, the petitioners and the Employees Union are initiating separate proceedings under the provisions of the Industrial Disputes Act.

5.The said submission is placed on record.

6. So far as the other prayer in the writ petition to forbear the respondents 1 to 3 from approving the closure of the fourth respondent, as rightly pointed out by the learned counsel for the fourth respondent, the respondents 2 & 3 have no role to play with regard to the approval of a closure of the establishment or an industrial undertaking, and the authority would be the first respondent who has to exercise the power under section 25 of the Industrial Disputes Act. However, while exercising such power, the procedure contemplated under the Act has to be necessarily followed.

7. Therefore, though the prayer sought for by the petitioners is not happily worded, the petitioners apprehension is that the closure cannot be approved without following due process of law. The learned counsel for the petitioners would submit that after the order was passed by the third respondent on 12.10.2015, another proceedings has been initiated and a notice of hearing was issued fixing the date of hearing as 04.11.2015, vide notice dated 28.10.2015 and the matter has been now adjourned without any specific date. The learned counsel for the fourth respondent submit that this subsequent proceedings is not related to the present dispute, which is raised in this Writ Petition.

8. Be that as it may, the remedy available to the petitioners/employees under the provisions of the Industrial Disputes Act can always be invoked by the petitioners or any other aggrieved workman/employee. Considering the subsequent developments, the Writ Petition stands closed, leaving it open to the petitioners to work out the remedy under the provisions of the I.D. Act, before the second respondent, in the manner known to law.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

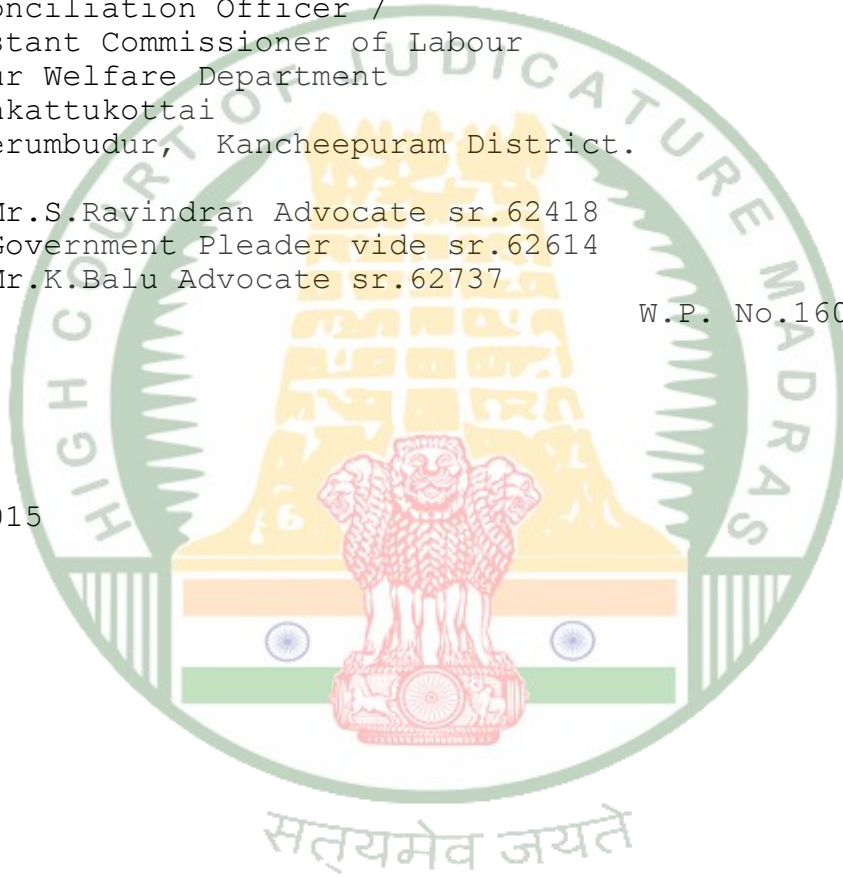
To

- 1 The State of Tamil Nadu
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- 2 The Deputy Commissioner of Labour
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Teynampet, Chennai-6.
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Labour Welfare Department
Irrunkattukottai
Sriperumbudur, Kancheepuram District.

+1 cc to Mr.S.Ravindran Advocate sr.62418
+1 cc to Government Pleader vide sr.62614
+1 cc to Mr.K.Balu Advocate sr.62737

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