

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.21624 of 2015

Puduchery saraya Aalai Desiya Thozhilalargal Sangam
-INTUC, Puduchery - Regd No.1631/RTU/2010
Rep., by its Secretary,
No.13, Mariamman Koil Street,
Villiayanur Commune,
Puduchery - 605 110.

... Petitioner

Vs

1. The Managing Director,
Puduchery Distilleries Limited,
(A Govt., of Puduchery Undertaking)
Ariyapalayam,
Puduchery - 605 110.

2. Industrial Secretary,
Department of Industries,
Govt., of Puduchery,
Puduchery.

... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to forbear the respondents from appointing or engaging any persons as casual labours in the first respondent distilleries factory without adhering Puducherry Casual Labourers (Engagement and Regularisation) Scheme, 2009 and notifying the existing vacancy in the Employment Exchange.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mr.Mr.T.P.Manoharan for R1

Mr.A.Tamilvanan AGP
(Puducherry) for R1

O R D E R

Heard the learned counsels appearing on either side and perused the materials placed on record. By consent of the learned counsels on either side, the writ petition is taken up for final disposal.

2. The petitioner is a Trade Union, and the grievance raised in this Writ Petition is about the engagement of workmen in the Puducherry Distilleries Limited, which is a Government of Puducherry undertaking. The petitioner Union has made representations stating that there is a violation of the Government Notification (Puducherry Casual Labourers Engagement and Regularisation) Scheme, 2009. It is further seen that the Chief Secretary to Government of Puducherry vide office memorandum dated 28.02.2011, has directed that all Government departments and their subordinate offices, quasi-government organisations and local bodies should strictly confirm to the provisions of the scheme notified in G.O.Ms.No.22, dated 27.02.2009.

3. The petitioner would state that the first respondent is acting in gross violation thereof.

4. In my view, the petitioner being a Trade Union/Employees Union, the proper course to be adopted is to approach the coram under the Industrial Disputes Act or under the provisions of the Contract Labour (Regulation and Abolition) Act or the scheme, which has been framed by the Government of Puducherry.

5. This Court cannot examine the contentions by way of Writ Petition, since it is a disputed question of fact. It is noteworthy to point out that the Hon'ble Division Bench of this Court in W.P.No.18615 of 2005 etc., batch dated 23.12.2010, [M.Renganathan vs. Union of India], has made the following observations pertaining to the scheme:-

20. Inasmuch as we do not find any vitiating factors in the issuance of G.O.Ms.No.22 (DP & AR), dated 27.02.2009, we are not inclined to interfere with the same. For the very same reason, we do not propose to interfere with the draft list of full-time casual labourers published by the fourth respondent. We, however, make it amply clear that if in respect of any individual case appearing in the list there is

any illegality or serious infirmity conflicting with the provisions contained in the various clauses of the aforesaid Scheme, it will always be open to any aggrieved person to approach the Administrative Tribunal for working out his grievance.

6. This Writ Petition stands disposed of in terms of the observations made by the Hon'ble Division Bench of this Court in W.P.No.18615 of 2005 etc., batch dated 23.12.2010, [M.Renganathan vs. Union of India]. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pbn

To

1. The Managing Director,
Puduchery Distilleries Limited,
(A Govt., of Puduchery Undertaking)
Ariyapalayam,
Puduchery - 605 110.
2. Industrial Secretary,
Department of Industries,
Govt., of Puduchery,
Puduchery.

+1cc to Mr.T.P.Manoharan, Advocate, S.R.No.61935

+1cc to Mr.P.R.Thiruneelakandan, Advocate, S.R.No.61945

W.P. No.21624 of 2015

PPA(CO)
CA(26/11/2015)

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