

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.3763 of 2014

Anamallai Ambedkar Thotta

Makkal Sangam

Regd : 8471/CBE/1993

rep.by its General Secretary

S.Kesavamarugan

35, New Market, Valparai Post

Coimbatore-642 124

.... Petitioner

vs.

1.The State of Tamil Nadu

rep.by its Secretary

Labour & Employment Department

Chennai-600 009

2.The Commissioner of Labour

DMS Complex

Teynampet, Chennai-600 006

3.The Chief Inspector of Plantations/

Joint Commissioner of Labour (Admn)

DMS Complex

Teynampet, Chennai-600 006

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the respondents to fill the vacant post of Inspector of Plantation at Valparai immediately.

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Mr.M.S.Ramesh, A.G.P.

O R D E R

The prayer in the writ petition is for issuance of a writ of mandamus to direct the respondents to fill the vacant post of Inspector of Plantation at Valparai immediately.

2. The short facts of the case are as follows:

According to the petitioner, he is the General Secretary of the petitioner's Union and he is representing majority workers in the Anamalai Plantation and all along recognized by the Government and the Estate Managements therein. There have

been non-implementation of Labour Welfare measures and there have been several proceedings pending before the Inspector of Plantation under the Tamil Nadu Confirmation of Permanent Status Act and the Payment of Wages Act etc. Further, there have been several criminal prosecutions, taken by the above authority, pending before the Judicial Magistrate Court, Valparai, in S.T.C.Nos.411 to 421 and 424 of 2012. In some other cases in S.T.C.Nos.407 to 410, the Managements connected in the above cases had all approached this Court in CrI.O.P.Nos.10919 to 10924 and the same were subsequently withdrawn by them even at the time of admission for the reason that there is no merit. But, unfortunately, suppressing the above facts some managements had obtained an order of interim stay in W.P.Nos.13604 to 13614 of 2012 and 15990 of 2012 for S.T.C.Nos.411 to 421 and 424 of 2012.

3. Further, the petitioner has submitted that in such circumstances, the Inspector of Plantation, who had initiated the prosecution, was forcibly transferred and the post has not been filled till date and the officers in-charge have also not attended the post regularly due to their work pressure and ultimately the pendency of cases under the Tamil Nadu Confirmation of Status Act and Payment of Wages Act have been kept under cold storage. The Estate Managements have been lobbying and trying to keep the post vacant by all their means. There have been number of workers and their welfare is now under question. Even some Trade Unions, without any authorization, have been trying to deduct money illegally under the head of subscription and donation, but without the proper authority the workers would be in the dark even to complain about their grievances. The above vacant post has also the authority under the Plantation Labour Act and the implementation of the above Labour Welfare Legislations would be possible only by appointing such officers permanently. On that score, their Union had given several representations, including the representations dated 21.04.2012, 15.10.2012, 23.11.2012 and final representation, dated 21.01.2013, but all had been ended in vain. Therefore, the petitioner has filed this writ petition seeking the relief as stated above.

4. The learned counsel appearing for the petitioner has submitted that the petitioner Union is a registered one. There have been non-implementation of labour welfare measures and there have been several proceedings pending before the Inspector of Plantation under the Tamil Nadu Confirmation of Permanent Status Act and the Payment of Wages Act etc. The Inspector of Plantation was forcibly transferred and thereafter the post has been kept vacant. The officers, who are in-charge, have also not attended the post regularly due to their work pressure and hence the pending cases have been piling. Therefore, the learned counsel has prayed this Court to direct the respondents to fill up the vacant post of Inspector of Plantation at Valparai.

5. The learned Additional Government Pleader appearing for the respondents has submitted that the representations submitted by the petitioner Union are pending enquiry. The third respondent is the competent authority to consider the same in accordance with law.

6. On considering the facts and circumstances of the case and the submissions of the learned counsel on either side and on perusing the typed set of papers, it is seen that the petitioner Union has submitted four representations to the respondents on various dates and the same are pending enquiry. However, this Court directs the petitioner Union to submit a fresh representation to the third respondent on the same issue, within a period of four weeks from the date of receipt of a copy of this Order and on receipt of the same, the third respondent is directed to consider and dispose of the same on merits and in accordance with law, within a period of twelve weeks thereafter.

7. The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Secretary,
Labour & Employment Department,
State of Tamil Nadu,
Chennai-600 009.
- 2.The Commissioner of Labour,
DMS Complex,
Teynampet, Chennai-600 006.
- 3.The Chief Inspector of Plantations /
Joint Commissioner of Labour (Admn),
DMS Complex,
Teynampet, Chennai-600 006.

+ 1 cc to Mr.G. B. Saravanabhavan, Advocate SR.19021

W.P.No.3763 of 2014

MSM(CO)

EU 27.1.16