

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

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The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.2596 of 2015
and M.P.No.1 of 2015

Workmen of MRF Plant

Rep.by MRF Employees Union

D.No.37, Pattinathar Koil Street

Thro. its General Secretary

Tiruvottiyur Chennai-600019

[Petitioner]

Vs

1 Director of Industrial Safety
and Health (formerly)
Chief Inspector of Factories
presently re-designated as
Director of Factories
Kannammai Building
Chennai-600002

2 Joint Director Industrial Safety & Health
Tiruvottiyur Chennai-600019

3 Management of MRF
Rep.by its General Manager Post Box No.5285
Tiruvottiyur Chennai-600019

4 Asst. Commissioner of Labour
Kuralagam Chennai-600108

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 and 2 to forthwith inspect the 11-D Banburry No. 2 Department in the MRF factory of Tiruvottiyur namely at Tiruvottiyur High Road Chennai-600019 and ensure the safety and health of the workers and in particular act upon the complaint of the petitioner Union dated 23.1.2015.

For Petitioner

: Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalaikannu

For Respondents

: Mr.V.Subbiah, SGP (R1,2 & 4)
Mr.Anandagopalan for
M/s T.S.Gopalan & Co. (R3)

ORDER

The Employees Union has filed the above writ petition to issue a writ of mandamus directing the respondents 1 and 2 to forthwith inspect the 11-D Banburry No. 2 Department in the MRF factory at Tiruvottiyur High Road, Chennai-600019 and ensure the safety and health of the workers and in particular act upon the complaint of the petitioner Union dated 23.1.2015.

2. It is the case of the petitioner that Banburry division produces the basic raw material from which tyres are manufactured and the same was being run at 60 rpm for the last one week and the vibration has increased on the floor and the workers have to work on the said floor for 8 hours and therefore they find it extremely difficult to bear the vibration and notice because of the continuous exposure to the same. According to the petitioner, the settlement visualize the operation of 11-D Banburry No.2 both at 60 rpm and 40 rpm. Therefore, to reduce the vibration, the Union requested the Management to work at 40 rpm and the workers started working at 40 rpm. However, according to the petitioner, the Management switched off the motor saying that it should be operated only at 60 rpm and not at 40 rpm and consequently denied the work to the entirety of the workers and threatening to deduct wages alleging falsely as if the workers are indulging in "Go Slow" and "Strike". On 23.01.2015, the petitioner Union has given a representation to the 3rd respondent in this regard. The workers also complained to the 2nd respondent, who is the jurisdictional inspector for the concerned factory.

3. Mr.V.Subbiah, learned Special Government Pleader, appearing for respondents 1, 2 and 4 submitted that on 07.02.2015, the factory was inspected by the Vibration Analyst by name V.Vijayakrishnan and on analysing the vibration level, he has given a report to them stating that the vibration level is within the limits.

4. Mr.V.Prakash, learned Senior Counsel for the petitioner submitted that the inspection was done in the absence of the petitioner Union on 07.02.2015. That apart, the Vibration Analyst was employed by the Management for assessing the vibration level.

5. The learned counsel for the 3rd respondent Management submitted that in view of the inspection conducted by the Vibration Analyst on 07.02.2015, nothing survives for adjudication in the present writ petition.

6. Heard Mr.V.Prakash, learned Senior Counsel for the petitioner, Mr.V.Subbiah, learned Special Government Pleader for the respondents 1, 2 and 4 and Mr.Anandagopalan, learned counsel for M/s T.S.Gopalan & Co. for the 3rd respondent.

7. Admittedly, when the inspection was conducted on 07.02.2015 by the Vibration Analyst, the petitioner Union was not put on notice and that they were not present at the time of inspection. While the writ petition filed by the petitioner Union is pending before this Court, the Vibration Analyst should have informed the petitioner Union at the time of inspection. That apart, the Vibration Analyst was employed by the Management themselves to assess the level of vibration in the factory which is against the principles of natural justice. Hence, the report given by the Vibration Analyst based on the inspection conducted on 07.02.2015 cannot be relied upon. Besides, the petitioner has given a representation dated 23.01.2015 to the respondents 1 and 2 to inspect the factory and ensure the safety and health of the workers. In such a case, the respondents 1 and 2 should have engaged an independent Vibration Analyst instead of depending upon the Management to appoint a Vibration Analyst. In these circumstances, I am of the considered view that the factory have to be inspected by a independent Vibration Analyst in the presence of the representatives of the petitioner Union and the 3rd respondent Management. The 2nd respondent should also be present at the time of inspection by the Vibration Analyst.

8. In view of the same, the 2nd respondent is directed to engage a certified Vibration Analyst and inspect the 11-D Banburry No. 2 Department in the MRF factory at Tiruvottiyur High Road, Chennai-600019 to assess the vibration level and ensure safety and health of the workers based on the complaint made by the petitioner Union dated 23.01.2015, within a period of two weeks from the date of receipt of a copy of this order, in the presence of the representatives of the petitioner Union and the 3rd respondent Management. It is made clear that the 2nd respondent should also be present at the time of inspection to be made by the Vibration Analyst. In case if the Vibration Analyst finds that the vibration level is more than the prescribed limit, it is upto the respondents 1, 2 and 4 to take appropriate action as against the 3rd respondent Management.

With these observations, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

rg

-s/d-

Assistant Registrar(CS-II)

Dt:20/2/2015

True Copy

Sub-Assistant Registrar

To

- 1 Director of Industrial Safety
and Health (formerly)
Chief Inspector of Factories
presently re-designated as
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Kannammai Building
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 - 2 Joint Director Industrial Safety & Health
Tiruvottiyur Chennai-600019
 - 3 The General Manager
Management of MRF
Post Box No.5285
Tiruvottiyur Chennai-600019
 - 4 Asst. Commissioner of Labour
Kuralagam Chennai-600108
- + 1 cc to Mr.T.S.Gopalan & Co. Advocates SR 8844
- + 1 cc to Government Pleader SR 9146

mg(co)
prk20/2

W.P.No.2596 of 2015



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