

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

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THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.27419 & 27420 of 2015 &

M.P.Nos.1 & 1 of 2009

ABI Showatech (India) Ltd
(Light Alloy Products Division) Rep. by its
Occupier-S.Ravindran S.No.655 656 659/ 2B
Pullivalam Village Banavaram Po Walaja Tk
Vellore Dt-632505 ...Petitioner in both W.Ps

v.

1 The Joint Director
Industrial Safety and Health-I ,
Vellore - 9

2 M/s. S.V.G. & Co.
Rep. by its Proprietor
P.N. Lakshmi Narayanan
No. 58 Post Office Street
Sholinghur - 631 102

3 M/s. R.Loganathan & Company
Rep. by its Proprietor
R. Loganathan
No. 47/1 Kamaraj Nagar
Sholinghur -631 102

...Respondents in both W.Ps

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of 1st Respondent in Proceedings No. N.K.E / 1815 / 2015 and quash its order dated 19.08.2015

For Petitioner : Mr.S.Ravindran

For Respondents : Mr.V.Subbiah,
Spl. Govt. Pleader - for R1

COMMON ORDER

By consent, the writ petitions are taken up for final disposal.

2. The petitioner company would state that their company was registered as a Principal Employer under Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "Act") with registration number R.C.No.7/2000 and they have engaged services of the respondents 2 and 3 among 13 contractors for effecting man power supply and they are also providing man power for movement of materials within the factory premises. The second respondent was allowed to provide 55 contract workmen and the third respondent was allowed to provide 65 workmen. It is further stated by the petitioner that the petitioner as well as the contractors had duly registered themselves under the provisions of the above said Act and also strictly complying with the same. However, the first respondent issued a show cause notice dated 23.07.2015 to the petitioner stating that some of the workmen of the respondents 2 and 3 were involved in work other than what was provided in the registration certificate and called upon the petitioner to show cause as to why the registration certificate granted to them should not be revoked. The petitioner has given his reply dated 12.08.2015 stating among other things that ever since the date of registration in the year 2000 onwards, they have not violated any of the provisions of the above said Act and renewal of licence to the contractors was granted only after due inspection and the work performed by the workmen of the respondents 2 and 3 was strictly in terms of the licence issued to them and they have also provided photographs and video clippings to prove the same. It is further stated in the said reply that even on 15.05.2015, there was an inspection and thereafter only renewal licence was granted on 22.08.2015 and therefore, the reasons assigned in the show cause notice was unsustainable and prayed for dropping of further action. Further, the first respondent without properly considering the explanation submitted by the petitioner to the show cause notice passed a cryptic order and challenging the illegality of the same, the petitioner has filed these writ petitions.

3. Mr.S.Ravindran learned counsel appearing for the petitioner would submit that the respondents 2 and 3 were also issued with impugned order cancelling their registration and they made a challenge in W.P.Nos.26799 and 26800 of 2015 and this court by order dated 27.08.2015, granted interim stay in the said writ petitions. The learned counsel appearing for the petitioner would further add that section 8 of the Contract Labour Act, 1970 cannot be invoked in the facts and circumstances of the case and even otherwise, explanation submitted by the petitioner has not been taken into consideration by the first respondent properly and no opportunity of personal hearing was also given to the petitioner and hence, prays for interference.

4. This Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of first respondent.

5. It is relevant to extract Section 8 of the Contract Labour act, 1970, which reads as follows:-

"8.Revocation of registration in certain cases - If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or supersession of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government evoked the registration."

6. A perusal of the impugned order would disclose that detailed explanation submitted by the petitioner dated 12.08.2015 is not at all taken into consideration and merely it has been stated in the impugned order that the reply to the show cause notice is not acceptable.

7. Since the impugned order does not disclose any reason, it is obligatory on the part of the first respondent to assign reasons for revoking the registration granted to the petitioner under the provisions of the Act. Hence, on the sole ground, the impugned order warrant interference and the matter is to be remitted to the first respondent for fresh adjudication strictly in accordance with law.

8. In the result, the writ petitions are partly allowed and the impugned orders dated 19.08.2015 are quashed and the matter is once again remanded to the first respondent, who shall consider the explanation submitted by the petitioner and also afford an opportunity of personal hearing and pass orders, strictly, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and till and till such time, the further proceeding shall be deferred. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

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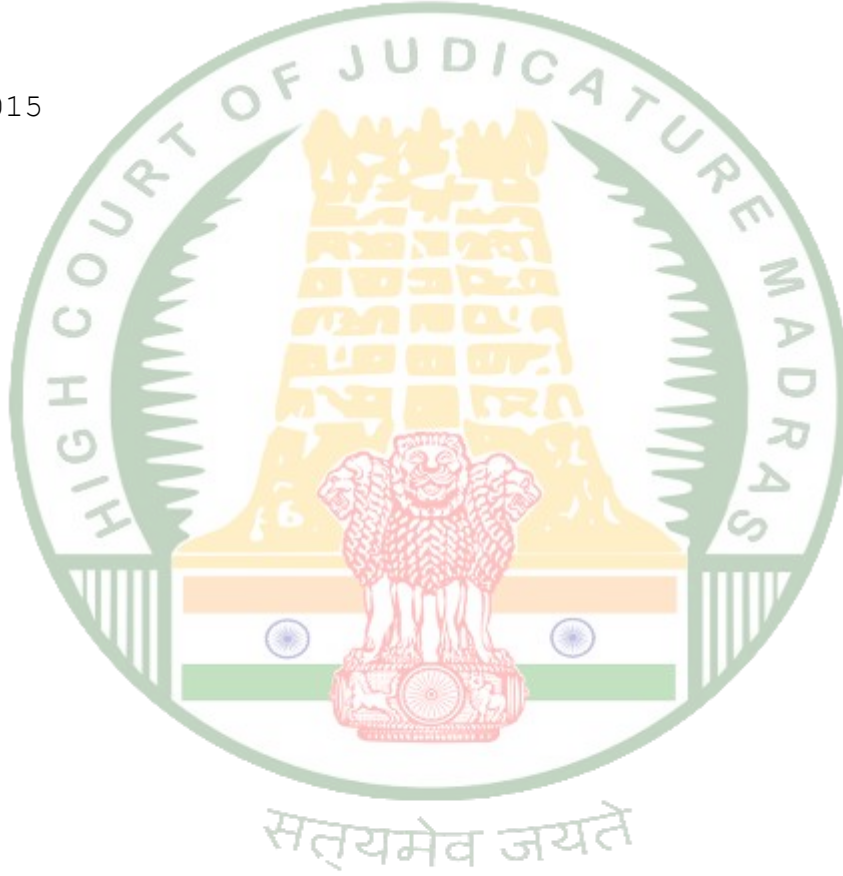
To

The Joint Director
Industrial Safety and Health-I ,
Vellore - 9

+1 cc to Mr.S.Ravindran Advocate sr.46945
+1 cc to Government Pleader sr.47671

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