

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/11/2015

C O R A M

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.29767 of 2015
a n d
M.P.Nos.1 and 2 of 2015

Shree Mother Plast Employees Union
rep. By its Secretary
Reg.No.1690/RTU/2012
No.89 V.V.Nagar
2nd Cross Street
Kalithithaikuppan
Madgadipet
Puducherry 605 107. Petitioner

Vs

1. Government of Puducherry
rep. By its Secretary
Labour Department
Puducherry.
2. The Labour Officer (Conciliation)
Government of Puducherry
No.15 First Floor
Nehru Nagar
Puducherry 605 011.
3. M/s.Shree Mother Plast India Pvt Ltd
rep. By its Managing Director
Plot No.A43 to A.48
Electronic Park
PIPDIC
Thirubuvanai
Puducherry 605 107. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to forbear the third respondent from altering the service conditions of the members of the petitioner Union whose names are given in the

Annexure to the petition in any manner including discontinuance of service or transferring or failing to provide employment in any manner or removing machinery without getting permission under Section 33 of the Industrial Disputes Act, 1947, in the industrial Disputes raised by the petitioner which is pending conciliation before the second respondent as dispute No.828/LO (C)/AIL/2015 regarding charter of demand and further direct the second respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12 (4) of the Industrial Disputes Act and in turn direct the first respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

(*Xerox copy of Annexure attached)

For petitioner ... Mr.Kamatchi Sandaresan
For respondents ... Mr.A.S.Baradhi
for R.R.1 and 2
Mr.John Zachaiah
for M/s.Fox Mandal &
Associates
for R.3.

O R D E R

With the consent of the learned counsel appearing for the parties, this writ petition is taken up for final disposal.

2. Heard Mr.R.Kamatchi Sandaresan for the petitioner, Mr.A.S.Baradhi for the respondents 1 and 2 and Mr.John Zachaiah for M/s.Fox Mandal & Associates for the third respondent.

3. This writ petition has been filed praying to forbear the third respondent from altering the service conditions of the members of the petitioner Union whose names are given in the Annexure to the petition (25 employees) in any manner including discontinuance of service or transferring or failing to provide employment in any manner or removing machinery without getting permission under Section 33 of the Industrial Disputes Act, 1947.

4. It is not in dispute that conciliation is pending before the second respondent and it is stated that hearing is posted today i.e., on 25/11/2015 and it is stated that the Management representative is also appearing before the Conciliation Officer.

5. The apprehension of the petitioner is that the third respondent Management without obtaining permission from the second respondent is attempting to dismantle the machinery, which would result in discontinuance of service and they may lose their employment.

6. At the time when the writ petition was entertained, an interim order was granted on 22/9/2015 by which the status-quo which was existing on the said date was directed to be maintained. Subsequently, the third respondent Management has entered appearance and they have filed their counter affidavit.

7. In the counter affidavit, in paragraph 16, it is stated that the service conditions of the persons, whose names are found in the annexure, except for Mr.E.K.Shankar will be paid the salary as applicable, there will not be any change in their service conditions, no discontinuance of service or transfer or failure to provide employment, if they report for duty.

8. In paragraph 7 of the counter affidavit, it has been stated that the Management proposes to shift 18 machines (with its accessories) to Chennai to the new establishment and 8 machines will be retained in the present establishment and therefore, the employees service conditions will not be altered in terms of the undertaking given in paragraph 16 of the affidavit.

9. The learned counsel appearing for the petitioner submitted that the averments made in the counter affidavit may be placed on record and the writ petition can be disposed of, in the light of the above, taking note of the stand taken by the third respondent Management.

10. The learned counsel appearing for the Management submitted that so far as 18 machinery which they are proposed to erect, there is a likelihood of objection from the petitioner.

11. The learned counsel appearing for the Union, on instruction submitted that in the light of the undertaking given in paragraph 16 of the counter affidavit, they will not object for shifting of the eighteen machines to the new establishment at Chennai.

12. Accordingly, this writ petition is disposed of. It is open to the petitioner as well as the third respondent Management to participate in the conciliation proceedings before the second respondent and co-operate for the early disposal of the matter. It is made clear that all the other issues are left open to be agitated before the Conciliation Officer/appropriate forum. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

True Copy

Sub Assistant Registrar

To

1. The Secretary
Government of Puducherry
Labour Department
Puducherry.
2. The Labour Officer (Conciliation)
Government of Puducherry
No.15 First Floor
Nehru Nagar
Puducherry 605 011.

+2cc to M/S.Fox Mandal & Association, Advocate sr.64007

+1cc to M/S.Balan Haridas, Advocate Sr.64687

सत्यमेव जयते

W.P.No.29767 of 2015

ppa[co]
srg 11/12/2015

WEB COPY