

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.35200 OF 2015

AND

M.P.NOS.1 & 2 OF 2015

Coimbatore Corporation Contractors
Welfare Association,
rep. by its Secretary,
K.Chandra Prakash

...Petitioner

Vs.

The Commissioner,
Coimbatore Corporation,
Coimbatore.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for records relating to the order passed in Na.Ka.No.12550/2013/B2 on the file of the respondent, dated 07.07.2015, and to quash the same and to direct the respondent not to deduct any amount from and out of the payment made to the the contractors in the name of contribution to the Manual Workers Fund Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994, and to refund the amount already deducted from the contractors.

For Petitioner : Mr.S.Doraisamy
For Respondent : Mr.R.Sivakumar

सत्यमेव जयते
O R D E R

The petitioner is an Association of registered contractors of the respondent-Coimbatore Corporation. The petitioner seeks to quash the proceedings of the respondent, dated 07.07.2015, and to direct the respondent not to deduct any amount from and out of the payment made to the contractors in the name of contribution to the Manual Workers Fund Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994, and to refund the amount already deducted from the contractors.

2. The learned counsel appearing for the petitioner has submitted that, in all the Government Departments, such as Highways Department, Public Works Department, the amount payable

to the Manual Workers Fund is added to the estimate itself, and, in this regard, a resolution has been passed by the Government, vide G.O.(Ms).No.295 of Labour and Employment (12) Department, dated 17.12.2013, stating that 1% contribution amount should be included in the total estimated cost of the building or construction work proposed to be conducted, as contribution to the fund, which is constituted for the benefit of the manual workers.

3. On the aforesaid submissions, heard Mr.R.Sivakumar, learned counsel, who accepts notice for the respondent.

4. In my view, the decision to collect the fund at the time of payment, or to be loaded on to the estimate, is a Policy or Administrative decision to be taken up by the local body concerned. There can be no denial to the fact that the contractors, who are members of the petitioner/Association are statutorily bound to estimate the amount towards the fund, since it is pursuant to the enactment in terms of Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994. Therefore, there cannot be any escape from the payment of this due collected under the statutory scheme. However, the issue would be, as to whether the amount should be included in the estimate itself, or should be recovered at the time of disbursement of payment. In this regard, the petitioner/Association made a representation on 18.04.2015, which was rejected by the Assistant Commissioner of the respondent/Corporation, and the impugned order has been passed.

5. In the light of the facts, as narrated supra, this Court is of the view that the impugned order cannot be set aside, since the amount payable, is as per the statutory scheme. However, this Court is not foreclosing the avenues for representation to be made by the petitioner. Accordingly, while rejecting the prayer made for quashing the impugned order, liberty is granted to the petitioner to submit a detailed representation to the respondent, who in turn, shall place the matter before the Council of the Coimbatore Corporation, who shall take a reasoned decision in the matter as expeditiously as possible, preferably, within a period of three months. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ds/sd

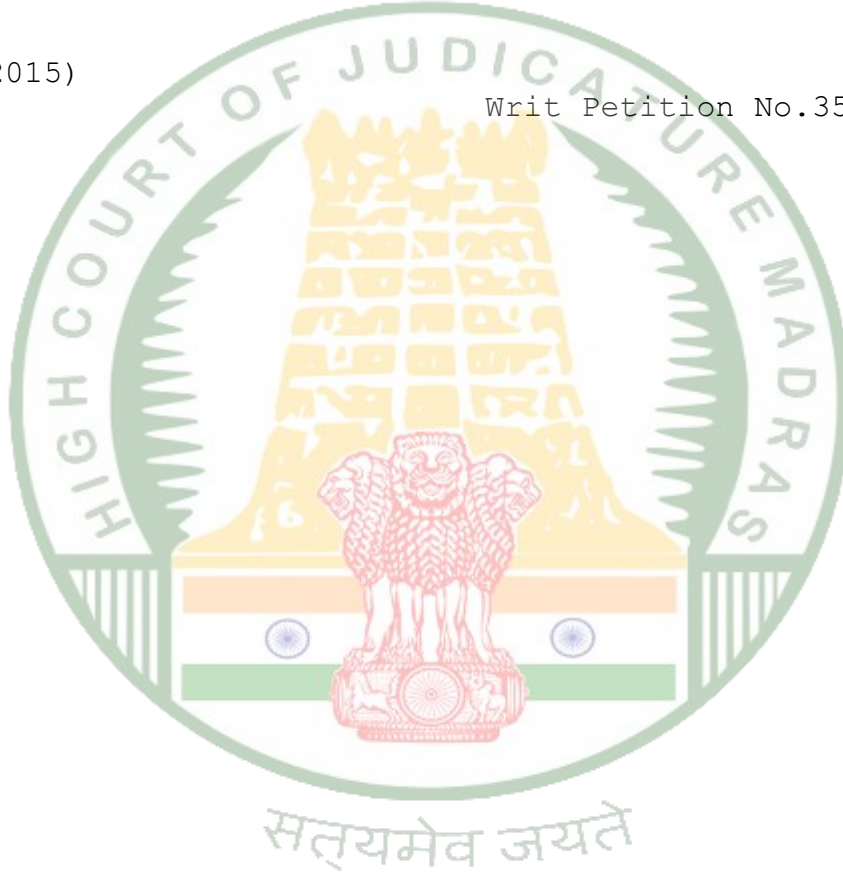
To

The Commissioner,
Coimbatore Corporation,
Coimbatore.

+1cc to Mr.R. Sivakumar, Advocate, S.R.No.60491
+1cc to Mr.S. Doraisamy, Advocate, S.R.No.60277

PUR(CO)
EU(19/11/2015)

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