

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 35924 of 2015 and M.P. No. 1 of 2015

Lottee India Corporation Mittai
Alai Thozhilalargal Sangam
Regn No. 1/65 S.A.T.
Rep by its Secretary
Factory Road, Nellikuppam 607 105
Cuddalore District.Petitioner

Vs.

1. The Government of Tamil nadu,
Rep by its Secretary,
Labour and Employment Department,
Fort St., George,
Chennai - 600 009.
- 2.The Labour Officer,
No. 22 A, Pudhupalayam Main Road,
Cuddalore 1.
- 3.The Management
Lotte India Corporation Limited,
Rep. by its Factory manager,
Factory Road, Nellikuppam,
607 105. Cuddalore District.Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the 3rd respondent from altering the weekly holiday from Sunday to Saturday or to any other day in violation of Section 9A of the I.D.Act, 1947 and without taking prior permission from the 2nd respondent in the dispute raised by the petitioner on 01.10.2015 which has been numbered and taken on file by the 2nd respondent as Na.KaNo. 398/2015, as required under Section 33 of the Industrial Disputes Act, 1947, and further to direct the 1st respondent to refer the dispute for adjudication before the competent Industrial Adjudicator on the basis of the failure recorded under Section 12(4) of the Industrial Disputes Act by the 2nd respondent.

For Petitioner	:	Mr.Balan Haridas
For RR 1 and 2	:	Mr.R.V.Jayakumar. Addl. Government Pleader
For R3	:	Mr.G.Anand for M/s.T.S.Gopalan & Co

ORDER

Heard Mr.Balan Haridas, the learned counsel for the petitioner and Mr.R.V.Jayakumar learned Additional Government Pleader accepting for the respondents 1 and 2 and Mr.G.Anand accepting for the respondent No. 3 and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner is an Employees Union and has filed this writ petition to forbear the 3rd respondent from altering the weekly holiday from Sunday to Saturday or to any other day in violation of Section 9A of the I.D.Act, 1947 and without taking prior permission from the 2nd respondent before whom the dispute raised by the petitioner under Section 33 of the Industrial Disputes Act, 1947, is pending. The petitioner also seeks for a further direction to the 1st respondent to refer the dispute for adjudication before the competent Industrial Adjudicator on the basis of the failure recorded under Section 12(4) of the Industrial Disputes Act by the 2nd respondent.

3. At the very outset, it has to be pointed out that the petitioner seeks for three different reliefs in this writ petition. But the predominant of the three is against the 3rd respondent which is a private management. The petitioner seeks for issuance of a writ of mandamus to forbear the 3rd respondent from altering the weekly holiday. In my view, this Court will not issue writ of mandamus against the private management for such a relief. Insofar as the second relief, the petitioner seeks is with regard to the dispute which is pending before the 3rd respondent. Simultaneously, the petitioner seeks for a further relief stating that upon the failure report being given by the 2nd respondent, there will be a direction to the 1st respondent to refer the dispute for adjudication before an Industrial Adjudicator. The reliefs No.2 and 3 sought for, are premature.

4. In the above circumstances the petitioner has not made any case for grant for issuance of a writ of mandamus as sought for.

5. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

rms/AP

05.11.2015

This matter having been listed on Friday the Twentieth day of November (20.11.2015) under the caption for Being Mentioned in pursuance of the order of this court dt.5.11.2015 and made herein is the presence of the above said counsels on either side this court made the following order;

Today, this matter has been listed under the caption "For Being Mentioned."

2. Heard Mr.Balan Haridas, learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader for the respondents 1 and 2 and Mr.G.Anand for M/s.T.S.Gopalan & Co for the third respondent.

3. It is submitted by the learned counsel that the petitioner withdrew the writ petition with liberty to file a fresh petition. But however, the order does not indicate the same and the writ petition was dismissed on merits.

4. It has to be pointed out that this Court, dictated the order and dismissed the writ petition. After dismissal, the learned counsel sought permission to withdraw the writ petition. Therefore, the order dated 5/11/2015, stands withdrawn and based on the endorsement made by the writ petitioner, the writ petition is dismissed as withdrawn, with liberty as sought for.

mvs.

20/11/2015

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Secretary, Government of Tamil nadu,
Labour and Employment Department,
Fort St., George,
Chennai - 600 009.

2.The Labour Officer,
No. 22 A, Pudhupalayam Main Road,
Cuddalore 1.

+ 1 cc to M/s.T.S.Gopalan & Co SR 60864

+ 1 cc to Govt.Pleader SR 61447

+ 1 cc to Mr.Balan Haridoss, Advocate SR 63647

(co)
prk16/11

W.P.No.35924 of 2015

SVI (CO)
EU 10.12.15



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