

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.36460 of 2015 &
M.P.No.1 of 2015

Plantation Labour Association (AITUC)
Represented by its President,
T.Balakrishnan,
S/o.Thirumal,
19/135, Mysore Road,
Gudalur, The Nilgiris 643 212 [PETITIONER]
Vs

1. The Labour Officer,
Conoor-1,
The Nilgiris District.
2. The Managing Director,
The Frontier Industrial Cooperative
Tea Factory Ltd, Ind.No.1415,
Erumed Konnachal Post - 643 239,
The Nilgiris District,
Tamilnadu
3. The Kattabettu Industrial Co-operative
Tea Factory Ltd,
Kattabattu - 643 240,
The Nilgiris District
4. The Managing Director,
Bitherkad Industrial Co-opeartive
Tea Factory Ltd,
The Nilgiris 643 240 [RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus directing the first respondent to consider the representation / complaint dated 23.10.2015 of the petitioner in accordance with law as expeditiously and possible to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu
Ms.T.P.Savitha Govt.Advocate for
For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.R.Sankarasubbu, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents.

3. The petitioner is a trade union consisting of members working in the Tea Factories established and administered by the respondents 2 to 4. The grievance of the petitioner is that the respondents 2 to 4 have altered the service conditions prejudicial to that of the workmen and they were demoted as daily wagers and therefore the petitioner Union raised an Industrial dispute before the first respondent. The petitioner filed a complaint before the first respondent under Section 33 (A) of the Industrial Disputes Act and since the matter was not taken up for consideration and there was a stalemate in the matter, the petitioner has filed this Writ Petition for a direction to consider the representation / complaint dated 22.10.2015 in accordance with law.

4. When the Writ Petition came up for admission, notice was ordered to the respondents, returnable by 30.11.2015 and private notice was also ordered to the respondents 2 to 4. The respondents 2 and 3 have entered appearance. However, notice ordered to the fourth respondent is yet to be served and when the case was heard on 30.11.2015, the learned Government Advocate was directed to verify the stage of the petition filed by the Trade Union under Section 33 A of the Industrial Disputes Act.

5. Ms.T.P.Savitha, the learned Government Advocate appearing for the first respondent on written instructions given by the first respondent submitted that the matter is pending before the first respondent and the first respondent has fixed the date for conciliation on 10.12.2015 at 3.30.p.m in his office. In this regard, a notice has been despatched to the respondents and there is proof to show that the second respondent has received the said notice on 08.12.2015. Similarly, it is stated that the second as well as the fourth respondent have received the notice. On a perusal of the notice

issued by the first respondent, it appears that for the earlier hearings, the respondents 2 to 4 did not participate. If that is the position, it has to be deprecated since the respondents 2 to 4, being a Co-operative Society, are bound to respond to the summons / notices issued by the Labour Officer. In any event, the hearing is fixed on 10.12.2015, on which date, the respondents 2 to 4 are bound to participate.

6. Section 33(A) of Industrial Disputes Act is a special provision of adjudication as to whether the conditions of service, etc; changed during the pendency of the proceedings. Whether any employer contravenes to the provisions of Section 33 during the pendency of the proceedings before the Conciliation Officer / Board / Arbitrator / Labour Court / Tribunal or National Tribunal, any employee aggrieved by such contravention may make a complaint in writing in a prescribed manner. This power has been resorted to by the petitioner's Union and therefore the respondents 2 to 4 are bound to participate in the conciliation proceedings.

7. In the light of the above, there will be a direction to the first respondent to conclude the Conciliation proceedings expeditiously, preferably within a period of three weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of with the above said observations. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srn

To

1. The Labour Officer,
Conoor-1,
The Nilgiris District.

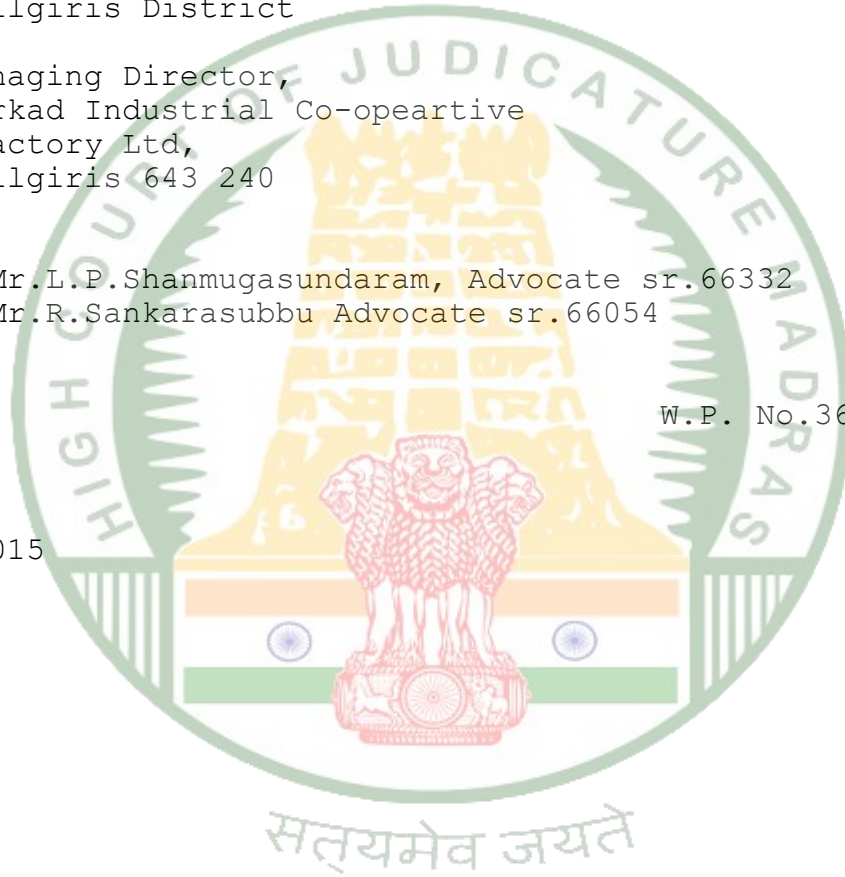
WEB COPY

2. The Managing Director,
The Frontier Industrial Cooperative
Tea Factory Ltd, Ind.No.1415,
Erumed Konnachal Post - 643 239,
The Nilgiris District,
Tamilnadu
3. The Kattabettu Industrial Co-operative
Tea Factory Ltd,
Kattabattu - 643 240,
The Nilgiris District
4. The Managing Director,
Bitherkad Industrial Co-opertive
Tea Factory Ltd,
The Nilgiris 643 240

+1 cc to Mr.L.P.Shanmugasundaram, Advocate sr.66332
+1 cc to Mr.R.Sankarasubbu Advocate sr.66054

W.P. No.36460 of 2015

aa28/12/2015



WEB COPY