

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.6020 of 2015 &
M.P.No.1 of 2015

MRF Limited,
Tiruvottiyur,
Chennai-600 019.
Rep. by its General Manager Petitioner

Vs.

1. The Deputy Commissioner of Police,
Tondiarpet,
Chennai - 600 081.
2. The Assistant Commissioner of Police,
Tondiarpet,
Chennai - 600 081.
3. The Inspector of Police,
H8 Police Station,
Tiruvottiyur,
Chennai - 600 019.
4. MRF Employees Union,
Rep by its General Secretary,
37 Pattinathar Koil Street,
Tiruvottiyur, Chennai - 600 019. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Mandamus, to direct the respondents 1 to 3 to provide adequate police protection to the petitioner's factory at Tiruvottiyur, Chennai - 600 019 pursuant to the complaint of the petitioner dated 28.02.2015 and 01.03.2015 to the respondents 1 to 3.

For Petitioner : Mr.V.Karthic &
Mr.T.S.Gopalan & Co.

For Respondents : Mr.M.S.Ramesh
Addl. Govt. Pleader for R1 to R3

Mr.V.Prakash, Senior Counsel for R4

O R D E R

The short facts of the case are as follows:-

The petitioner is a General Manager of MRF Limited, Tiuvottiyur, wherein, tyres are manufactured. The factory of the petitioner employs 1080 persons and the fourth respondent is the sole bargaining agent in respect of all the employees. The petitioner and the fourth respondent Union have entered into many settlements with regard to wages and other benefits of workmen. A settlement entered between the petitioner and fourth respondent came to an end on 06.07.2013. Thereafter, the fourth respondent submitted charter of demands seeking revision of wages. However, even before any meaningful negotiation could be held, the petitioner approached the Conciliation machinery and thereafter sought directions from this Court for an early reference of the dispute to the Industrial Tribunal. The dispute has been referred to the Industrial Tribunal and has been taken on the file of Industrial Tribunal as I.D.No.8 of 2015. This dispute is pending before the Industrial Tribunal and is next posted for orders in certain interim applications filed by the Management on 05.03.2015. In this scenario, from 27.02.2015, the factory workmen, who are the members of the fourth respondent Union, went on strike inside the factory premises of the petitioner in front of the Administrative Block and Human Resources Block. On 28.02.2015, at about 3 p.m. at the conclusion of the first shift and commencement of the second shift, the workmen of both the shifts resorted to a stay-in-strike and laid siege of the Administrative Block and the Human Resources Block of the factory. They did not allow any of the managers / staff, inside both the blocks, numbering more than 40 persons, to leave the office premises. In fact, they were not even given access to essentials like water and food. The workmen who reported for work in the second shift commencing at 3 p.m also joined the striking workmen. As a result, despite their working hours coming to an end at 4.30 p.m., the 40 managerial persons working in the administrative block of the factory were unlawfully restrained inside the office by the members of the fourth respondent Union. The petitioner made complaint with the third respondent and the second respondent through phone seeking police protection for the managers, who were illegally retained inside the factory. The third respondent called on the factory of the petitioner with a few policemen. However, they were far outnumbered by the striking workmen who were more than 700. The petitioner pleaded with the second and third respondents to provide larger contingent of police force to at least enable the exit of the illegally detained managers. However, no efforts were made by the second and third respondents in this regard.

2. The petitioner further submits that at around 8.30 p.m., a Manager of the Human Resources Department, who was highly diabetic, faced a medical condition resulting in a drastic drop of his blood

sugar and blood pressure. The officials of the petitioner requested the members of the fourth respondent Union to either provide some food to the concerned officer or permit him alone to be taken to hospital using the factory's ambulance. However, the members of the fourth respondent prevented the movement of the sick officer who was in need of immediate medical attention. The fourth respondent members after much persuasion agreed to allow him to exit the factory for medical assistance at around 9 p.m. only. Even when he was being taken from the HR block to the ambulance he was attacked by the striking workmen. The ambulance was thereafter very violently attacked. The concerned officer, despite the fact that he was being taken to hospital, was beaten even as he was sitting in the ambulance. The ambulance was severely damaged. The ambulance, which was a small omni van, was shaken and was not allowed to leave the factory. After much persuasion, despite the medical condition of the concerned officer deteriorating, the ambulance was allowed to leave the factory only around 09.05 p.m. A part of the incident has been captured in the CCTV camera fitted near the gate of the factory. Unfortunately as the workmen have been resisting installation of CCTV camera in other parts of the factory, there is no footage of the entire incident. The available CCTV footage would show the conduct of the members of the fourth respondent.

3. The petitioner has reliably come to know that if the orders to be passed by the Industrial Tribunal on 05.03.2015, in interlocutory applications filed by the management were not to their liking, the members of the fourth respondent would resort to another stay in strike putting in peril the men and material of the petitioner factory. The petitioner apprehends that the workmen may once again lay siege of the HR Block and administrative block and resort to a stay-in-strike. In the past, the petitioner faced similar action outside the factory gate by the members of the fourth respondent. It filed O.S.No.94 of 20007 before the Subordinate Judge, Ponneri and had obtained permanent injunction restraining the fourth respondent, its office bearers, members, servants or anybody on its behalf from preventing the ingress and egress of officers, loyal workers, contract workers, vehicles, movement of finished products and raw materials, to assemble, demonstrate, shout slogans and conduct dharna within a radius of 10 meters from the factory premises of the petitioner. Despite the said order, the members of the fourth respondent resorted to stay-in-strike on 28.02.2015 and are likely to resort to the same on 05.03.2015 or thereafter. Despite the action of the members of the fourth respondent being in violation to the permanent injunction granted against them, the respondents 1 to 3 have not come forward to provide protection. The respondents refuse to interfere stating it is a labour dispute.

4. The petitioner further submits that the action of the fourth respondent would be restricting the rights of the petitioner and managerial persons employed in the factory of the petitioner. The

safety of the factory and the managerial staff working inside the factory are put to serious peril. Despite the various complaints given by the petitioner to respondents 1 to 3 about the violent conduct of the fourth respondent and their action in illegally restraining the Managers of the factory, the respondents have not come forward to take any action or give adequate protection to the petitioner. The workmen have raised a dispute regarding their demands and it is pending before the Industrial Tribunal. Being so, they cannot resort to any direct action or arm twisting of the management. The respondents 1 to 3 failed to appreciate that the action of the fourth respondent members is in violation of the injunction order and also violates the rights of the petitioner and its officials. The respondents without appreciating these facts merely have stated that the dispute is civil in nature and are refusing to interfere. The petitioner is not averse to union activities and the fourth respondent is free to resort to its union activities in a peaceful manner without disrupting the day to day activities of the petitioner much less cause harm to the men and material of the petitioner. The fourth respondent Union has been in existence for decades and more than 11 settlements have been signed between the petitioner and fourth respondent. Even now the petitioner is ready and willing to negotiate and settle the matter. However, the fourth respondent is keen on precipitating the litigation. There is no legal right for the workmen to strike when the dispute is pending and much less inside the factory of the petitioner. In these circumstances, the petitioner is forced to approach this Court seeking a direction to respondents 1 to 3 to provide adequate protection to the factory of the petitioner situated at Tiruvottiyur High Road, Chennai - 600 019.

5. The highly competent counsel Mr.V.Karthic appearing for the petitioner submits that the petitioner factory is manufacturing tyres and there are about 1080 employees working at the said factory. The fourth respondent, viz., MRF Employees Union is the sole bargaining agent in respect of the employees of the factory. The petitioner's factory and the fourth respondent's employees union have entered into many settlements with regard to wages and other benefits of the workmen. There is a dispute between the Management and workers, hence, the dispute has been referred to the Industrial Tribunal and the case has been numbered as I.D.No. 8 of 2014, which is pending on the file of the Industrial Tribunal.

6. The highly competent counsel appearing for the petitioner submits that the workmen of the factory who are members of the fourth respondent's Union went on strike inside the factory premises of the petitioner factory in front of the Administrative Block and Human Resources Block from 27.02.2015. On 28.02.2015, the first and second shift workmen resorted to stay-in-strike and laid a siege in front of the above mentioned blocks. The workmen did not allow any of the administrative staff from both blocks to leave their offices and they were prevented to get food and water for themselves.

The managerial persons, who are around 40 members of the factory, were unlawfully restrained inside the office by the members of the fourth respondent's Union. Hence, a complaint had been lodged before the third respondent and the same was communicated to the second respondent, however, the second and third respondents have not taken necessary action.

7. The highly competent counsel further submits that at the time of the said incident, one of the Managers from the factory was in dire need of medical treatment but the fourth respondent's union prevented the officials from taking him to the hospital initially. Thereafter, after knowing the serious health condition of the manager, the Union member permitted him to take medical treatment and as such, the behaviour of the fourth respondent's union member are inhuman and unlawful. The highly competent counsel further submits that when the said officer was being taken from the Human Resources Block to the ambulance, the striking workers damaged the ambulance and attacked the sick manager. The said unwanted accident has been recorded in CCTV, fitted at the factory premises. Further, the fourth respondent's Union has stated that it will resort to a similar incident in future and hence, the aggrieved management has already filed an injunction suit before the Sub Court, Ponneri and had obtained permanent injunction restraining the fourth respondent and the men from preventing ingress and egress of officers and other workers and also movement of raw materials and finished products. Further, the Union members assembled in front of the factory and raised slogans and violated the injunction order. Even after receipt of the complaint, the respondents 1 to 3 have not extended their police service in order to control the law and order and tense situation prevailing. Therefore, Police protection is required for the management staff at the factory. The Management also had levelled few complaints dated 28.02.2015 and 01.03.2015 to the respondents 1 to 3, and sought necessary action against the erring workmen i.e., about 22 persons. Now, there is still a tense position prevailing continuously from 27.02.2015 onwards. The highly competent counsel has produced 4 coloured photographs and explained the high tense situation as shown there of and the damage of Maruthi Ambulance. The fourth respondent Union had issued a circular and resorted to an illegal strike. Hence, the highly competent counsel entreats the Court to direct the respondents 1 to 3 to provide police protection.

8. The highly competent Additional Government Pleader Mr.M.S.Ramesh appearing for the respondents 1 to 3 submits that the respondents 1 to 3 have received complaints and acted appropriately upon them. The employees of the factory were agitated since the Management had fixed the CCTV camera at the production area. The respondents 1 to 3 had provided adequate police protection in front of the factory premises. Necessary police personnel were posted before the disputed area and maintained the law and order. In order to control the situation, about 60 personnel protected the factory.

Actually, there is a dispute between the employer and employee regarding salary enhancement and this issue is long pending among them. One police check post is also functioning in front of the petitioner's factory. As of now, there is no law and order problem in the said area, hence, the highly competent Additional Government Pleader entreats the Court do dismiss the above writ petition.

9. The highly competent senior counsel Mr.V.Prakash appearing for the fourth respondent vehemently argued that the Management had not paid adequate salary including increment. Besides, the Management had fixed the CCTV camera at the production area. The petitioner's factory is a leading one in the production of tyres. About 1600 employees are working with the said factory. Now, the intention of the management is to engage outsiders for service protection at the factory. Further, the Management of the factory had instructed their employees to go on voluntary retirement and threatened that if they do not do so, the employees will be dismissed from service. The fourth respondent's union members are claiming their rights, which is within norms and have not violated law and order problem at the factory premises. Now, normal and peaceful condition are prevailing at the factory and therefore, police protection is now not necessary. Under these circumstances, if police protection is provided at the factory premises, it will give a wrong signal to the dutiful employees and tarnish their image among the general public.

10. Per contra, the highly competent counsel Mr.V.Karthic submits that on 27.04.2015, the fourth respondent's Union had issued notice under Rule 59(1) of the Tamil Nadu Industrial Dispute Rules and informed the Management that they would go on strike on 11.05.2015. Further, the workers are taking the law in their hands and have violated the law and order. Therefore, about 60 police personnel were deployed at the factory premises. It clearly proves that the workers are wantonly and deliberately creating a tense situation. Hence, Police protection is an imperative requirement in order to restore normalcy and maintain and continue the factory production and other administrative works, without any further interference by the employees.

11. From the above discussions, this Court is of the view that:-

(i) As per the petitioner's contention, the Management had obtained permanent injunction in O.S.No.94 of 2007, on the file of Sub Court, Ponneri, restraining the fourth respondent from preventing the ingress and egress of officers at the factory. The permanent injunction has been granted by the Sub Court, Ponneri, since the employees had violated law and order conditions.

(ii) The highly competent counsel appearing for the petitioner has submitted four coloured photos which reveals that a tense situation had been prevailing in front of the factory premises as well as inside the factory.

(iii) As per the complaint levelled by the Management dated 28.02.2015, 01.03.2015 and 05.03.2015, it is evident that a tense situation was prevailing at the factory premises.

(iv) The report of the Inspector of Police, who is attached to the Tiruvottiyur Police Station, reveals that nearly 60 police personnel gave protection to the petitioner's factory. The report further reveals that there is a dispute between the Management and workers, concerning salary and the fixation of CCTV at the production area. These basic issues have so far not been settled and as such, the dispute is untermenable.

(v) The petitioner's factory not only functions for their welfare and gain but also is functioning for commercial gain and public welfare by manufacture of tyres. Therefore, the petitioner's factory should function in a normal way which will be conducive for all concerned. As such, if this Court orders for police protection, no one will be prejudiced, especially, the fourth respondent herein.

12. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed-set of papers and this Court views listed as (i) to (v), this Court allows the above writ petition and directs the respondents 1 to 3 to provide adequate police protection to the petitioner factory at Tiruvottiyur, Chennai-19, with effect from 06.05.2015 until the situation is restored to normalcy to the satisfaction of the factory management. This Court further directs the Management, to remit the mandatory charges to the Sub Treasury (Account of State Exchequer) after adhering to standing G.O. of the State.

13. In the result, the above writ petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-II)

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Sub-Assistant Registrar

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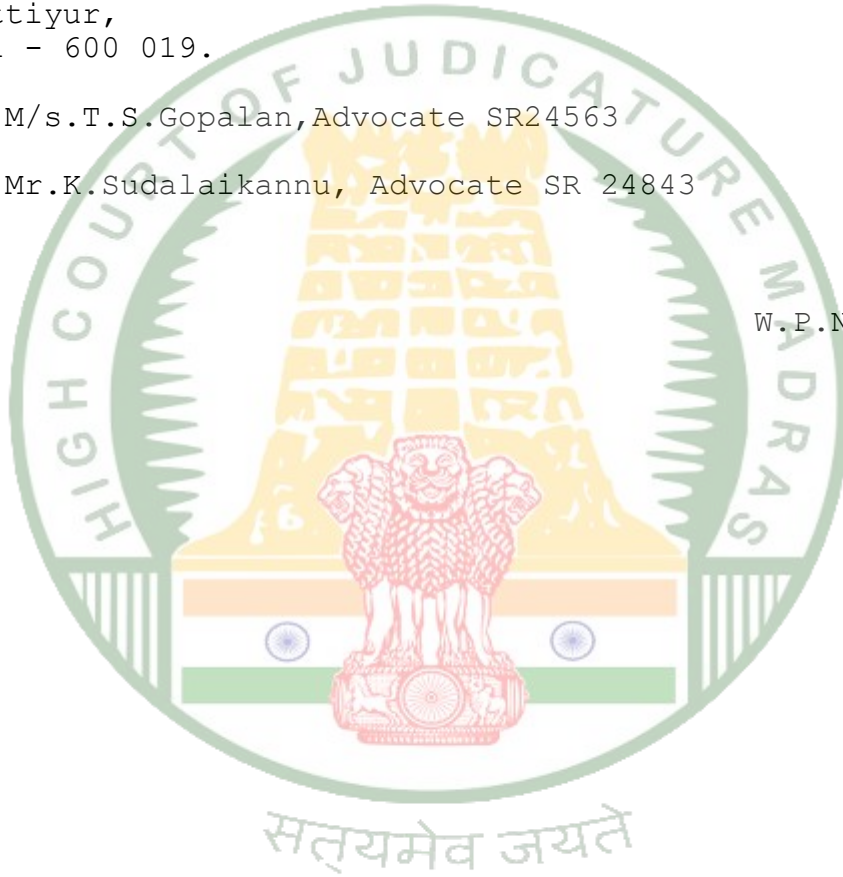
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+ 1 cc to M/s.T.S.Gopalan, Advocate SR24563

+ 1 cc to Mr.K.Sudalaikannu, Advocate SR 24843

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