

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.07.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.Nos.27362 and 21868 of 2007
and
W.P.Nos.12996 to 12998 of 2004

W.P.No.*27362 of 2007:

- 1.THE DISTRICT ANNA PANCHALAI
THOZHILALAR SANGAM,
(REGD NO.14/ANNA)
REP. BY ITS DISTRICT SECRETARY, ***MR.V.JAYARAMAN**
HAVING OFFICE
AT 4D, SCHEME ROAD,
DINDIGUL-1
- 2.THE STATE PANCHALAI ANNA
THOZHILALAR SANGAM, (REGD NO.2935/77)
REP. BY ITS SECRETARY
THIRU V.K.DHANAGOPALAN
AVVAI SHAMUGAM SALAI,
CHENNAI 600 014. ... PETITIONERS
- 1.KOVAI ERODE MAVATTA DRAVIDA
PANCHALAI THOZHILALAR MATRUM NIRVAGA
OOZHIYARZAL MUNNETRA SANGAM (LPF) 53/07
PRIYA COMPLEX COIMBATORE REP BY ITS G.
SECRETARY MR.S.PARTHASARATHY

MR.RAMASUBBU

...PETITIONER IN W.P.NO.21868/2007
...PETITIONER IN W.P.NO.21996&
21998/2007

VERSUS

- 1.THE STATE OF TAMIL NADU
REP. BY ITS CHIEF SECRETARY
FORT ST.GEORGE,
CHENNAI 600 009.

...R1 IN W.P.NO.12996/2004 TO
12998/2004

WEB COPY

2.THE SECRETARY TO STATE OF TAMIL NADU
LABOUR AND EMPLOYMENT DEPARTMENT,
FORT ST.GEORGE, CHENNAI 600 009.

3.THE CHIEF INSPECTOR OF FACTORIES
O/O.THE CHIEF INSPECTOR OF FACTORIES
CHENNAI 600 005.

...R2 & R3 IN W.P.NO.12996 OF
2004 & 12998/2004

4.THE COMMISSIONER OF LABOUR,
O/O.THE COMMISSIONER OF LABOUR,
DMS COMPOUND, TEYNAMPET,
ANNA SALAI, CHENNAI 600 006.

5.THE TAMIL NADU SPINNING MILLS ASSOCIATION
BY ITS CHIEF ADVISOR K.VENKATACHALAM
24, 11TH CROSS STREET,
THIRUVALLUVAR NAGAR, SPENCER TOWN,
DINDIGUL DISTRICT.

(R.5 IMPEADED AS PER SUO MOTU ORDER DATED 3.10.2007
BY CJ AND PJMJ IN WP.NO.27362 OF 2007

6.SRI SHANMUGAVEL MILLS (P) LTD.
7.SIVARAJ SPINNING MILLS (P) LTD
8.SUDHAN SPINNING MILLS (P) LTD
9.SRI VELAYUDHA SWAMY SPINNING MILLS (P) LTD.,
10.PRABHU SPINNING MILLS (P) LTD.,
11.ADISANKARA SPINNING MILLS (P) LTD.
12. SRI MATHA SPINNING MILLS (P) LTD.
13.VEDHA SPINNING MILLS (P) LTD.
14.PRABHU SPINNING MILLS (P) LTD.

15.VISHNU FABRICS

(R.6 TO R.15 IMPEADED AS PER ORDER DATED 24.1.2008 BY PKMJ
AND KCJ IN M.P.NO.1 OF 2008 IN W.P.NO.27362 OF 2007.

16.KPR MILL LTD.,
17.SRI SARAVANA SPINNING MILLS (P) LTD.
18.SHIVA TEXYARN LIMITED
19.BANNARI AMMAN SPINNING MILLS (P) LTD.
20.KLRF TEXTILES

21.PREMIER MILLS (P) LTD.,

(R.16 TO 21 IMPEADED AS PER ORDER DATED 26.2.2008
IN M.P.NO.2 TO 6 OF 2008 IN WP.NO.27362 OF 2007

22.STATE TEXTILE WORKERS' FEDERATION
NO.27, MOSQUE STREET,

CHEPAUK, CHENNAI 600 005.

- 23.GTN ENTERPRISES LTD.,
BY ITS MANAGER - HR
INDIRA NAGAR, THUNGA VI (P.O)
UDUMALPET 642 203, COIMBATORE DISTRICT.
- 24.GHCL LTD, BY ITS SENIOR GENERAL MANAGER
SAMYANALLUR POST, PARAVAI, MADURAI.
- 25.PATSPIN INDIA LIMITED
REP. BY ITS SENIOR MANAGER- HR
2/85-B, PONNERI, KOTTAMANGALAM (PO)
UDUMALPET 642 201.
(R.22 TO R.25 IMPEADED AS PER ORDER DATED 04.03.2008
IN M.P.NO.7 TO 10 OF 2008 IN W.P.NO.27362/2007
- 26.SUNDARAM TEXTILES LTD.,
NAMBINAGAR, NANGUNERI
TIRUNELVELI.
- 27.DATTARAYA TEXTILES PVT LTD.,

(R.26 TO R.27 IMPEADED AS PER ORDER DATED 9.4.2008
IN MP.NOS 11 AND 12 OF 2008 IN WP.NO.27362 OF 2007
- 28.SOUTHERN INDIA MILLS ASSOCIATION
SHANMUGAR MANDRAM
41, RACE COURSE ROAD,
COIMBATORE.
- 29.SOUTH INDIA SMALL SPINNERS ASSOCIATION
CHAMBER TOWERS, 8/732 AVINASHI ROAD,
COIMBATORE 641 018.
- 30.MADURI SPINNERS ASSOCIATION
MEENAKSHI ILLAM, 21, VINAYAKA NAGAR
K.K.NAGAR, MADURAI
- 31.INDIAN SPINNING MILLS OWNERS ASSOCIATION,
AVINASHI ROAD, COIMBATORE.
(R.28 TO 31 IMPEADED AS PER ORDER DATED 30.4.2008
.. RESPONDENTS
- 1 GOVT OF TAMILNADU
REP BY ITS CHIEF SECRETARY FORT ST.GEORGE
CHENNAI 9.

- 2 SECRETARY TO GOVT OF
TAMILNADU LABOUR AND EMPLOYMENT DEPT. FORT
ST.GEORGE CHENNAI 9.
- 3 CHIEF INSPECTOR OF FACTORIES
OFFICER OF THE CHIEF INSPECTOR OF FACTORIES
CHENNAI 5.
- 4 COMMISSIONER OF LABOUR
OFFICE OF THE COMMISSIONER OF LABOUR DMS
COMPOUND TEYNMAPET ANNA SALAI CHENNAI 6.
- 5 THE DISTRICT COLLECTOR
COIMBATORE AND DT.
- 6 THE DISTRICT COLLECTOR
OFFICE OF THE DISTRICT COLLECTOR PERUNDURAI
ROAD ERODE DT.
- 7 DEPUTY CHIEF INSPECTOR OF FACTORIES
COIMBATORE
THALAIVASAL COMPLEX
CROSS CUT ROAD
COIMBATORE-12.
- 8 DEPUTY CHIEF INSPECTOR OF FACTORIES
ERODE
HOUSING BOARD FOUR ROADS
SURAMPATTY PO. ERODE.
- 9 THE DEPUTY COMMISSIONER OF LABOUR
LABOUR OFFICE COMPLEX DR.
BALASUNDARAM ROAD COIMBATORE-41018.
- 10 THE DEPUTY COMMISSIONER OF LABOUR
85 SANKAR NAGAR SALEM-07.
- 11 THE REVENUE DIVISIONAL OFFICER
COIMBATORE OFFICE OF THE RDO
STATE BANK ROAD COIMBATORE-641 018.
- 12 THE REVENUE DIVISIONAL OFFICER
BROUGH ROAD OFFICE OF THE RDO
ERODE. ...RESPONDENTS IN W.P.NO.21868 OF 2007
- 4 THE COMMISSIONER
REGIONAL PROVIDENT FUND OFFICE
ROYAPETTAH CHENNAI-14

5 EMPLOYEES STATE INSURANCE CORPORATION
 REP BY ITS REGIONAL DIRECTOR
 STERLING ROAD
 CHENNAI-034

...R4 & R5 IN W.P.NO.12996/2004
 TO 12998/2004

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Declaration, declaring the G.O. (Per).No.137 dated 22.06.2007 issued by the Government of Tamilnadu (Labour and Employment Department) as ultra vires, unconstitutional and abuse of powers vested with the Government and further direct the respondent to abolish the camp coolie system in the Textile Mills throughout Tamil Nadu by initiating penal action under the relevant labour enactments against the textile mills which have been engaging the female workers under the said system in consequence thereof the respondents have to take appropriate steps to confer permanent status to the camp coolies employed in the Textile Mills and extend all attendant benefits provided under the Labour enactment on them in so far as the petitioners concerned.

Prayer in W.P.No.21868 of 2007:

For the reasons stated above it is respectfully prayed that this Hon'ble Court may be pleased to issue writ or order or direction more in the nature of writ of declaration declaring the G.O. (per) No.62 dt 30.3.07 issued by the Government of Tamilnadu (Labour and Employment Dept.) as ultra vires of Art. 14 21 and 23 of constitution of India and further direct the I respondent to abolish the "Camp Coolie system" in the textile mills of Erode, Coimbatore, Salem, Dindigul and other backward districts of Tamilnadu and take appropriate steps to protect the interests of camp coolies employed in the Textile Mills and thus render justice.

Prayer in W.P.No.12996 of 2007:

Directing the Government of TamilNadu to creat a Specialised Inspectorate and Enforcement Machinery to oversee the implementation of the provisions of the Factor's Act, Industrial Emplment(Standing Orders) Act, Provident Fund and Miscellaneous Provisions Act, Employees State Insurance Act, Tamilnadu Industrial (Establishment Conferment of Permanent Status to Workmen) Act etc to the Textile Mills in Tamilnadu as a Special Enforcement drive.

Prayer in W.P.No.12997 of 2004:

Directing the first respondent to amend the definition of the term "Apprentice" under the Model Standing Orders framed under the Tamil Nadu Industrial Employment (Standing Orders) Rules 1947 restricting the period of training or learning of the apprentice to six months in respect of any employment in textile industry.

Prayer in W.P.No.12998 of 2004:

Directing the first respondent to include the textile industry to Schedule to the Minimum Wages Act 1948 and to fix minimum rates of wages in respect of the employment in the Textile industry by adopting the procedure contemplated under Sec.5(1)(b) of the Act, in a time bound manner and place the same before this Honourable Court as a Notification issued under the act and also to constitute a machinery for strict enforcement of the same so that the expited workmen of the textile industry are atleast assured of the minimum wages fixed by the Government.

For Petitioners : Mr.G.Anandakumar
For Petitioner
in W.P.No.21868/2007 :M/S.K.V.Shanmuganathan
For Petitioner in
W.P.12996 to 12998/2004:Mr.V.Prakash Senior Counsel
Mr.K.Ramkumar

For Respondents :Mr.S.T.S.Murthi
Government Pleader
assisted by Mr.V.Shanmugadundar
AGP for R.1 to R.4
Mr.R.S.Pandiyaraj for R.5, 26 and
27.
Mr.Sanjay Mohan
for S.Ramasubramanian and
Associates
for R.6 to R.15, 17
Mr.R.Parthiban
for R.16, 20, 21, 29, 23 to 25,
29
Mr.S.Kadarkarai for R.18 and R.19
Mr.K.Elango for R.22
Mr.Anand Gopalan
for T.S.Gopalan for R.28.
Ms.R.Vaigai
appointed as Amicus Curiae

For Respondent in
W.P.No.21868

: Mr.S.T.S.Murthi
Government Pleader
assisted by Mr.V.Shanmugasundar
AGP for R.1 to R.12

For Respondents in
W.P.No.12996 to
12998/2004

: Mr.S.T.S.Murthi
assisted by Mr.V.Shanmugasundar
AGP for R1 to R3
: Ms.V.Mohana Priya for R4
Mr.S.Jayakumar for R5

O R D E R

(The Order of the Court was made by The Hon'ble
The Chief Justice)

We are informed that the Industrial Employment (Standing Orders) Tamil Nadu Amendment Act, 2008, which had been forwarded to the President of India, was received with certain comments by the State Government and this process has gone on till now the notification has been issued in the gazette published on 04.07.2016, assent of President of India obtained on 26.02.2016. It is submitted that the rules pursuant thereto would have to be now formulated by the State Government, for which we grant three months time.

2. It has also been pointed out to us that as per the summary of representations filed by the District Monitoring Committees, the conclusions and recommendations emerge:

"Conclusions and Recommendations:

- Camp Coolie system in the name of Sumangali Scheme should be abolished and women must be given regular wages.
- Employment of adolescents should be stopped and stringent action should be taken against the Mill Managements that employ girls below the age of 18 years.
- Minimum wages should be fixed not less than Rs.150/- per day as per Coimbatore Report.
- Guidelines framed by the High Court for the employment of women in night shifts must be adhered to.
- Number of Apprentices cannot be more than 20% of total workforce.

- Scheme workers should be absorbed at the end of scheme period.
- Reduce Apprenticeship to one year.
- Freedom of movement and collective bargaining should be ensured.'

3. The learned counsel appearing for the Association submits that there are certain standing orders governing the issue, which can be in conflict with the aforesaid conclusions and recommendations, though learned counsel appearing in other matters appear not to have any grievance against these conclusions and recommendations.

4. We direct the State Government to analyse the conclusions and recommendations and to consider as to what extent they would implement the recommendations, for which also we grant three months' time.

5. Learned counsel appearing for the Mills and Associations seek to contend that the Apprenticeship / Sumangali Scheme had practically been given up, especially in view of minimum wages being provided for, and hardly a few Mills were operating initially out of 1803 Mills, which were inspected at the time when the petitions were filed.

6. The learned counsel appearing for the respondent in W.P.No.27362 of 2007 states that he has instructions that the scheme is not prevalent qua the said respondent. It is thus submitted that unless there are specific allegations, there is no further need to really look into the aspect. However, learned Senior Counsel appearing for the petitioner in W.P.No.12996 of 2004 urges to the contrary and as an example has given the name of 'Sri Munipachaiyappan Textiles Pvt. Ltd, Ippedu Village, Arakkonam Taluk, Vellore District.' He submits that an inspection can be carried out without notice tomorrow itself, so that the facts would come to light.

7. Learned Government Pleader assures that an inspection will be carried out tomorrow itself by the Deputy Commissioner of Labour, Corporation Old Building, Near Raja Theatre, Gandhi Road, Vellore along with the Joint Director of Industrial Safety and Health Department, 73, Phase I, Sathuvachary, Vellore -9 and the report will be submitted.

8. It is agreed that no further directions are required except that compliance of the aforesaid directions must take place.

9. The writ petitions stand accordingly disposed of, leaving the parties to bear their own costs. Consequently, connected

miscellaneous petitions are closed.

List for compliance on 04.11.2016.

Compliance report be filed at least three days prior to the next date of hearing with advance copy to the learned counsel for the parties.

Sd/-
Assistant Registrar(CS VII)
Dated:21/09/2016

*Corrected as
per letter dated
31/08/2016 in W.P.No.27362/2016

Sd/-
Assistant Registrar(CS VII)
Dated:01/08/2016

//True Copy//

Sub Assistant Registrar

ksr
To

- 1 GOVT OF TAMILNADU
REP BY ITS CHIEF SECRETARY FORT ST.GEORGE
CHENNAI 9.
- 2 SECRETARY TO GOVT OF
TAMILNADU LABOUR AND EMPLOYMENT DEPT. FORT
ST.GEORGE CHENNAI 9.
- 3 CHIEF INSPECTOR OF FACTORIES
OFFICER OF THE CHIEF INSPECTOR OF FACTORIES
CHENNAI 5.
- 4 COMMISSIONER OF LABOUR
OFFICE OF THE COMMISSIONER OF LABOUR DMS
COMPOUND TEYNMAPET ANNA SALAI CHENNAI 6.
- 5 THE DISTRICT COLLECTOR
COIMBATORE AND DT.

To be
substituted
order already
despatched on
22/07/2016

- 6 THE DISTRICT COLLECTOR
OFFICE OF THE DISTRICT COLLECTOR PERUNDURAI
ROAD ERODE DT.
- 7 DEPUTY CHIEF INSPECTOR OF FACTORIES
COIMBATORE
THALAIVASAL COMPLEX
CROSS CUT ROAD
COIMBATORE-12.
- 8 DEPUTY CHIEF INSPECTOR OF FACTORIES
ERODE
HOUSING BOARD FOUR ROADS
SURAMPATTY PO. ERODE.
- 9 THE DEPUTY COMMISSIONER OF LABOUR
LABOUR OFFICE COMPLEX DR.
BALASUNDARAM ROAD COIMBATORE-41018.
- 10 THE DEPUTY COMMISSIONER OF LABOUR
85 SANKAR NAGAR SALEM-07.
- 11 THE REVENUE DIVISIONAL OFFICER
COIMBATORE OFFICE OF THE RDO
STATE BANK ROAD COIMBATORE-641 018.
- 12 THE REVENUE DIVISIONAL OFFICER
BROUGH ROAD OFFICE OF THE RDO
ERODE.
- 13 THE COMMISSIONER
REGIONAL PROVIDENT FUND OFFICE
ROYAPETTAH CHENNAI-14
- 14 EMPLOYEES STATE INSURANCE CORPORATION
REP BY ITS REGIONAL DIRECTOR
STERLING ROAD
CHENNAI-034

+1cc to Mr.G.Ananakumar, Advocate Sr.41775
+1cc to Mr.T.S.Gopalan & Co, Advocate Sr.40800
+2cc to M/S.R.Ramasubramaniam, Advocate Sr.41182,41181
+1cc to M/S.R.Vaigai, Advocate Sr.41341

W.P.Nos.27362 and 21868 of 2007
and 12996 to 12998 of 2004

ssl[co]
srg 17/08/2016
srg 21/09/2016