

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.6599 of 2016

Hindustan National Glass & Industries
Thozhilalar Sangam(RTU No.1017/96)
Affiliated to United Labour Federation (ULF)
Thondamanatham Village Rep by General Secretary,
Villianur-Sedarapet main road
Puducherry-605 502 ...Petitioner

Vs.

1.The Government of Pondicherry
Represented by its Secretary
Department of Labour, Puducherry

2.Hindustan National Glass & Industries Limited,
Thondamanatham village,
Villianur-Sedarapet Main road,
Puducherry-605 502. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of mandamus directing the 1st respondent Government to make such enquiry as it may deem fit with regard to the application for permission sought by the 2nd respondent management on 11.01.2016 and give opportunity to the petitioner and the 2nd respondent of being heard and communicate the order to the 2nd respondent and the petitioner on or before 11th March, 2016.

For Petitioner : Mr.V.Prakash, Senior Counsel
for
Mr.K.Sudalaikannu

For Respondents : Mr.A.Tamilvanan, Govt.Advocate for
R1

Mr.Saiprasad
for
M/s. SaiRaaj Associates for R2

O R D E R

Heard Mr.V.Prakash, learned Senior Counsel, assisted by Mr.K.Sudalaikannu, learned counsel for the petitioner and Mr.A.Tamilvanan, learned Government Advocate for the respondents 1 and 3 and Mr.Saiprasad for M/s.SaiRaaj Associates, learned counsel for the 2nd respondent.

2. The petitioner has filed this writ petition seeking for a direction to the 1st respondent to make enquiry as it may deem fit with regard to the application for permission sought by the 2nd respondent management on 11.01.2016 affording an opportunity to the petitioner and the 2nd respondent and communicate the order to both parties.

3. The 2nd respondent management has filed an application in Form Q-A (under Rule 76-C(1)) of the Industrial Disputes Rules (herein after the Rules) proposing to close down their undertaking with effect from 11th April 2016, for the reasons explained in the annexure to the said application. It is further stated that number of workmen whose services will be terminated on account of the closure of undertaking is 150 and permission has been solicited for the proposed closure. Further the 2nd respondent declared that in the vent of approval for the closure being granted every workmen in the undertaking to whom sub-section (8) of the section 25-O of the Act applies, will be paid compensation as specified in the Section.

4. The petitioner trade union has filed their objections before the 1st respondent on 29.01.2016 and the same is now pending consideration of the 1st respondent. The apprehension of the petitioner union is that if the 1st respondent does not communicate the order either granting or refusing to grant permission to the employer within a period of sixty days from the date of the said application, the permission applied for shall be deemed to have been granted on the expiry of the said period of sixty days in terms of Section 25-O-(3) of the Industrial Dispute Act (Act). Therefore, the petitioner union contends that the procedure to be adopted under Sub Section 2 of Section 25-O of the Act has to be followed and parties should be heard in the matter since the statute has prescribed that the appropriate Government should make an enquiry in the manner it thinks fit after giving reasonable opportunity of being heard to the employer, the workmen and the persons interested. Therefore, when the statute prescribes such procedure, it is appropriate for the 1st respondent to make such enquiry as it thinks fit and then communicate the order and the 1st respondent should not remain silent so that the deeming provision under Sub-section 3 of Section 25-O of the Act comes into force.

5. Learned counsel for the 2nd respondent management submitted that they may also be given an opportunity to put forth their submissions, before the 1st respondent.

6. Learned Government Advocate appearing for the 1st respondent submitted that reasonable time may be given to the 1st respondent to hear the parties and pass orders in accordance with law.

7. In the light of the above, there will be a direction to the 1st respondent to consider the application filed by the 2nd respondent seeking permission for closure of their undertaking, taken out of the objections given by the petitioner herein, hear the parties in person represented by their authorized representative and pass a reasoned order on merits and in accordance with law and communicate the same to the 2nd respondent as well as the petitioner well before 10.03.2016.

8. Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Pondicherry,
Department of Labour,
Puducherry.

2.The General Secretary,
Hindustan National Glass & Industries Limited,
Thondamanatham village,
Villianur-Sedarapet Main road,
Puducherry-605 502.

+1cc to Mr.K.Sudalaikannu, Advocate sr.11214
+1cc to Government Pleader Sr.11144
+1cc to M/S.Sairaj Associates, Sr.11113

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srg 24/02/2016