

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.No.523 of 2017

The Management of Integra
Automation Pvt. Limited
No.487 Valarpuram Village
Perambakkam Road
Sriperumbudur 602 105 ... Appellant

-vs-

1. Government of Tamil Nadu
represented by its Secretary
Labour and Employment Department
Fort St.George
Chennai 600 009
2. The Assistant Commissioner
of Labour (Conciliation)-I
SIPCOT Complex
Irrunkattukottai
Sriperumbudur 602 117
3. Puthiya Jananayaga Thozhilalar
Munnani Integra Automation
Workers Branch rep.by its Secretary
Regn.No.43/TVR
No.110/63, N.S.K.Salai
Kodambakkam
Chennai 600 024 ... Respondents

Appeal under Clause 15 of the Letters Patent, against the order dated 24.03.2017 made in W.P.No.7219 of 2015 this Writ Petition filed Under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, to forbear the 3rd respondent from altering the service conditions of the members of the Trade Union whose names and details is enclosed in the annexure to this petition including discontinuance of their

services and removing the materials machinery or closing the factory or any act which will result in non-employment without getting prior permission from the 2nd respondent under section 33 of the Industrial Disputes Act 1947 in the industrial dispute viz. dated 5.1.2015 raised by the petitioner Union and further direct the 2nd respondent to conciliate and effect settlement under Section 12 (3) and if no settlement is forth coming to submit failure report under Section 12 (4) of the Industrial Disputes Act, 1947 and in turn to direct the first respondent to refer the dispute for adjudication before the competent adjudicator.

(*) Xeros Copy of Annexure enclosed.

For Appellant :: Mr.S.Ravindran
Senior Counsel for
Mr.P.Nehru

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & R2
Mr.S.Parthasarathy and
Mr.R.Sankarasubbu for
Mr.A.Suresh Sakthi Murugan for R3

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned senior counsel for the appellant, learned Special Government Pleader for the first & second respondents and the learned counsel representing the third respondent.

2. It appears that in respect of the dispute between the management and the workmen with regard to the running of the appellant-Establishment is concerned, there appears to be proceedings initiated before the Conciliation Officer. The grievance of the appellant is that they are engaged in the business of manufacturing automotive components with an investment of Rs.2,00,00,000/- and since they have suffered loss of more than Rs.10,00,00,000/-, after writing a letter to the Government under Section 25-FFA of the Industrial Disputes Act, 1947, they have now sought for closure of the establishment. In the meanwhile, when the matter was pending before the Conciliation Officer, the workmen approached this Court with the writ petition seeking a mandamus to forbear the management from altering the service conditions of the members of the Trade Union whose names and details were given in the annexure to the

petition including discontinuance of their services and removing the materials/ machineries or closing the factory or any act which will result in non-employment without getting prior permission from the second respondent under section 33 of the Industrial Disputes Act 1947 in the industrial dispute viz. dated 5.1.2015 raised by the petitioner Union and further direct the second respondent to conciliate and effect settlement under Section 12(3) and if no settlement is forth coming to submit failure report under Section 12(4) of the Industrial Disputes Act and in turn to direct the first respondent to refer the dispute for adjudication before the competent adjudicator.

3. It appears that after hearing the parties, the learned single Judge, observing that the appellant management had shifted the two machineries without the permission of the second respondent as per their admission in paragraph-6 of the counter affidavit, relying upon Section 33(1) of the Industrial Disputes Act, directed the management not to alter the service conditions including the shifting of any more machineries till the disposal of I.D.No.17 of 2016 pending before the Industrial Tribunal, Chennai and also observed that the Industrial Tribunal, Chennai shall proceed with the pending dispute on all other issues, without being influenced by any of the observations made by the Court, and dispose of the same expeditiously, preferably within a period of six months from the date of receipt of a copy of this order, on merits. Against the said order of the learned single Judge, the management is before us.

4. In the interregnum, it is to be noticed that so far no report has been given by the Conciliation Officer. However, as per the submission of the learned senior counsel for the appellant, a report has been submitted to the Government. Be that as it may. If there is any such delay on the part of the Conciliation Officer, for which a mandamus is sought to be issued, of course, the members of the third respondent Union can very well request the Conciliation Officer to record a finding regarding the failure or non-compliance of the provisions by the management and depending upon the outcome of the conciliation, the management or the workmen, as the case may be, can very well move the Industrial Tribunal or Labour Court to look into the issue. Therefore, it is for the respondents or the Conciliation Officer to do the needful at the earliest. According to the learned counsel for the third respondent-Workmen, there are more than 100 workmen and they seek for continuation of their services. On the other hand, the management is disputing the total number of workmen to 77 and after the issuance of notice under Section 25FFA of the Industrial Disputes Act, they can go for closure. In this background, a finding has to be rendered by the Conciliation Officer at the earliest, so as to enable the

aggrieved party to approach the Industrial Tribunal or the Labour Court, as the case may be, being a fact-finding authority and the filing of the writ petition appears to be premature. Though the anxiety of the third respondent/writ petitioner appears to be that the appellant/management is in the process of closure of the establishment without due compliance of the mandatory provisions, such disputed questions should be looked into only by the Conciliation Officer or the Industrial Tribunal, as the case may be and not by this Court. Hence, the order passed by the learned single Judge in the writ petition, for all practical purposes, is to be treated as closed, with liberty to the parties to approach the Conciliation Officer and it is for the Conciliation Officer to expedite the matter and thereafter, it is for the aggrieved party to approach the Industrial Tribunal or the Labour Court, as the case may be. However, the decision shall be taken by the Conciliation Officer or the Industrial Tribunal/Labour Court within a period of fifteen days from the date of receipt of a copy of this order and till such time, the machineries shall not be shifted/removed by the management. With this observation, the writ appeal stands disposed of. Consequently, C.M.P.Nos.7493 & 7522 of 2017 are closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ss

To

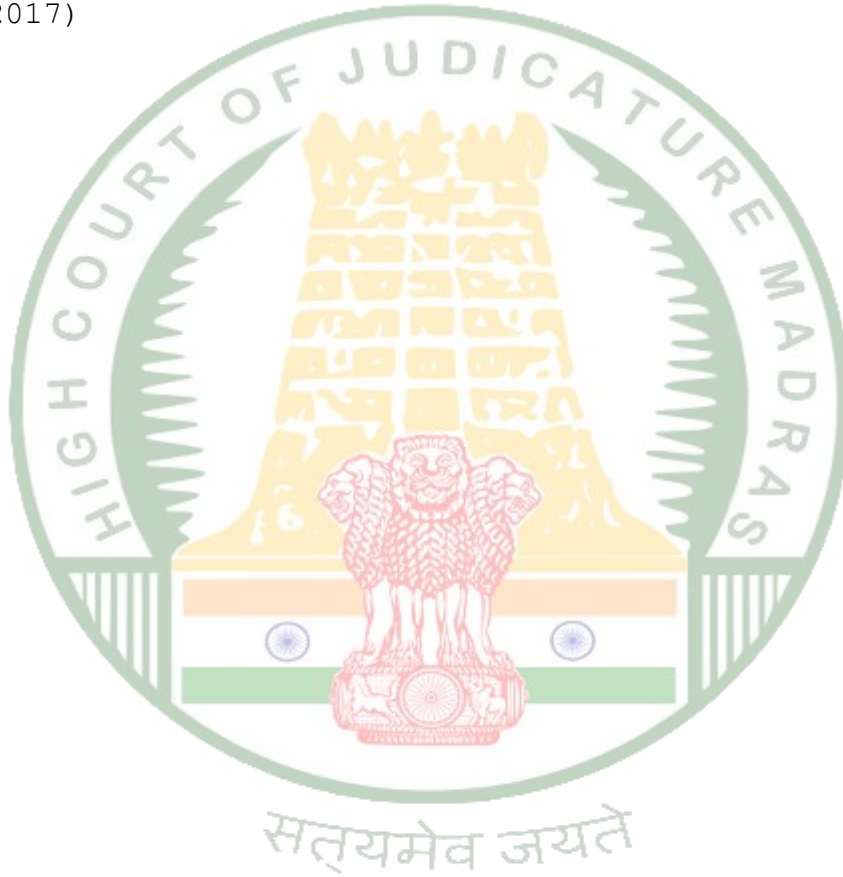
1. The Secretary to Government
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Chennai 600 009
2. The Assistant Commissioner
of Labour (Conciliation)-I
SIPCOT Complex
Irrunkattukottai
Sriperumbudur 602 117
3. The Industrial Tribunal,
Chennai.

4. The Duputy Commissioner Labour II,
DMS, Compound, Chennai-6.

+1cc to Mr.P.Nehru, Advocate Sr. 51178
+2cc to Mr.S.Parthasarathi, Advocate Sr. 50836
+1cc to the Government Pleader Sr. 51335

W.A.No.523 of 2017

RSI (CO)
VR(09/08/2017)



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