

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 16.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.Nos.15664 and 15665 of 2016

and

W.M.P.Nos.13612 to 13614 of 2016

The Management of Steer Engineering
Private Limited,
Rep. by its Senior Factory Manager-A,
Thirunavukkarasu,
2/85/3 SF.No.112
Annur Road, Arasur Post,
Coimbatore - 641 407.

... Petitioner in both W.Ps

Versus

1. The Presiding Officer,
Industrial Tribunal,
Chennai.

2. The General Secretary,
United Labour Federation,
162, Thambu Chetty Street,
II Floor, Chennai - 600 001.

... Respondents in both W.Ps

Prayer in W.P.No.15664 of 2016: Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, calling for the records of the 1st respondent in I.A.No.37 of 2016 in I.D.No.21 of 2013 and quash its order dated 12.04.2016.

Prayer in W.P.No.15665 of 2016: Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, calling for the records of the 1st respondent in I.A.No.47 of 2016 in I.D.No.21 of 2013 and quash its order dated 12.04.2016.

For Petitioner : Mr.S.Ravindran
in both W.Ps Senior Counsel
for Mr.L.Rajendran

For Respondents : Mr.K.V.Ananthakrishnan (For R2)
in both W.Ps R1 - Court

O R D E R

Heard Mr.S.Ravindran, learned Senior Counsel appearing for the petitioner and Mr.K.V.Ananthakrishnan, learned counsel appearing for the second respondent.

2.A dispute has been raised by the 2nd respondent under Section 2k of the Industrial Disputes Act before the 1st respondent with respect to a charter of demands. The matter reached the trial stage. At that point of time, two applications have been filed by the petitioner, one for production of the documents sought for from the 2nd respondent and other for seeking permission to file an additional reply statement.

3.The applications have been disposed of by the first respondent holding that strict rules of pleadings are not necessary in an adjudication. It has been further held that the issues relating to maintainability and the capacity of the 2nd respondent raising industrial dispute and the facts relating to the subsequent development can also be dealt with by the Court in the absence of the pleadings sought to be raised by way of an additional reply statement. It has been further held that production of the documents are not necessary and an adverse inference can be drawn in a given case. Challenging the same, the present writ petitions have been filed.

4.Learned senior counsel appearing for the petitioner would submit that the evidence of the 2nd respondent would show that there exist a bye law. There appears to be two groups functioning under the same union. The issue sought to be raised goes root of the matter, especially in the light of the statement made on the existence of the bye law which has not been produced. Hence, these writ petitions have to be allowed.

5.Learned counsel appearing for the 2nd respondent would submit that there is no error in the order passed by the 1st respondent as no positive findings have been rendered and thus the petitioner cannot be said to be a person aggrieved.

6.As rightly submitted by the learned counsel for the 2nd respondent, this Court does not find any error in the orders passed by the 1st respondent. The first respondent was pleased to hold that the issue with respect to the maintainability of the dispute can always be gone into. Thus, the 1st respondent shall certainly can go into the said issue, especially when it is already been raised by the petitioner. For the same, there is no necessity to file an additional reply statement. Similarly, the issue pertaining to the production of the

document at the hands of the 2nd respondent is also not required since the 1st respondent can draw an adverse inference considering the facts and circumstances of the case. Admittedly, the case is at the trial stage. Hence, this Court does not find any error in the orders passed by the first respondent.

7. Accordingly, the writ petitions stand dismissed making it clear that the 1st respondent shall consider all the objections raised by the petitioner notwithstanding the additional reply statement sought to be filed with respect to the maintainability of the dispute of the 2nd respondent and shall also consider the issue pertaining to the documents sought to be produced by drawing adverse inference if such a situation arises. It is also recorded that the 2nd respondent has filed all the documents except the bye laws and hence, even on that no further order is required. The 1st respondent is directed to take a final decision in I.D.No.21 of 2013 and dispose of it within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Presiding Officer,
Industrial Tribunal,
Chennai.
2. The General Secretary,
United Labour Federation,
162, Thambu Chetty Street,
II Floor, Chennai - 600 001.

+2cc's to Mr.K.V.Ananthakrishnan, Advocate, S.R.No.16504
+1cc to Mr.S.Bazeer Ahmed, Advocate, S.R.No.16391

W.P.Nos.15664 and 15665 of 2016
and W.M.P.Nos.13612 to 13614 of 2016

SAI (CO)
CA(07/04/2017)