

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

WRIT PETITION NO.3901 OF 2017
AND WMP NO.3965 OF 2017

The Tamil Nadu Press and Media
Reporters Union,
Rep. by its General Secretary
M.Perumal ... Petitioner

Vs.

The Additional Registrar of
Trade Union-1,
D.M.S. Complex,
Teynampet,
Chennai - 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for records from the respondent relating to the impugned order 3/5808/16 dated 16.11.2016 and quash the same and direct the respondent to follow the procedure contemplated under Section 10(b) of the Trade Union Act.

For Petitioner : Mr.R.Rajaram

For Respondent : Mr.K.J.Sivakumar
Government Advocate

O R D E R

The petitioner herein is a Registered Union. By the impugned order, the registration of the petitioner was cancelled on two grounds. The first ground, though not mentioned in the show cause notice, is on the footing that the petitioner has not intimated the change of address of his Office. The second is with respect to the non-filing of the annual return for few years.

2. The learned counsel appearing for the petitioner would submit that the procedure contemplated under Section 10 of the Trade Union Act has not been followed. There is no finding about the willfulness on the part of the petitioner and in any case, there is no contravention after notice.

3. The learned Government Advocate on instructions submitted that inasmuch as there are two contraventions, the order impugned has been passed and thus, does not require any interference by this court.

4. From the records, it appears that the first contravention has not been mentioned in the show cause notice and thus, the same cannot be relied upon, while passing the impugned order. Coming to the second issue of non-furnishing the annual return, the petitioner has given explanation that it has not been done so, in view of the dispute within the petitioner union. At best, it is only a procedural lacuna. In other words, it cannot be termed as a willful act on the part of the petitioner. Such an act has not been continued after notice from the respondent. Now the petitioner is ready and willing to send the return for the respective years. After all, the act is a welfare legislation to encourage the Trade Union activities with certain requirements. Therefore, when once the petitioner is complying with the procedural requirement, it is just and proper to allow it to rectify it instead of exercising the power under Section 10 of the Trade Union Act, by holding it as a willful.

5. In such view of the matter, the impugned order is set aside. Consequently, the petitioner is permitted to file the annual returns for the relevant years within a period of four weeks from the date of receipt of copy of this order. On such compliance, the respondent will have to accept it under Section 28 of the Act. This order is passed on the premise that power is available to the respondent to accept the return even after the date prescribed, being procedural in nature.

6. The writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

GSA/TK

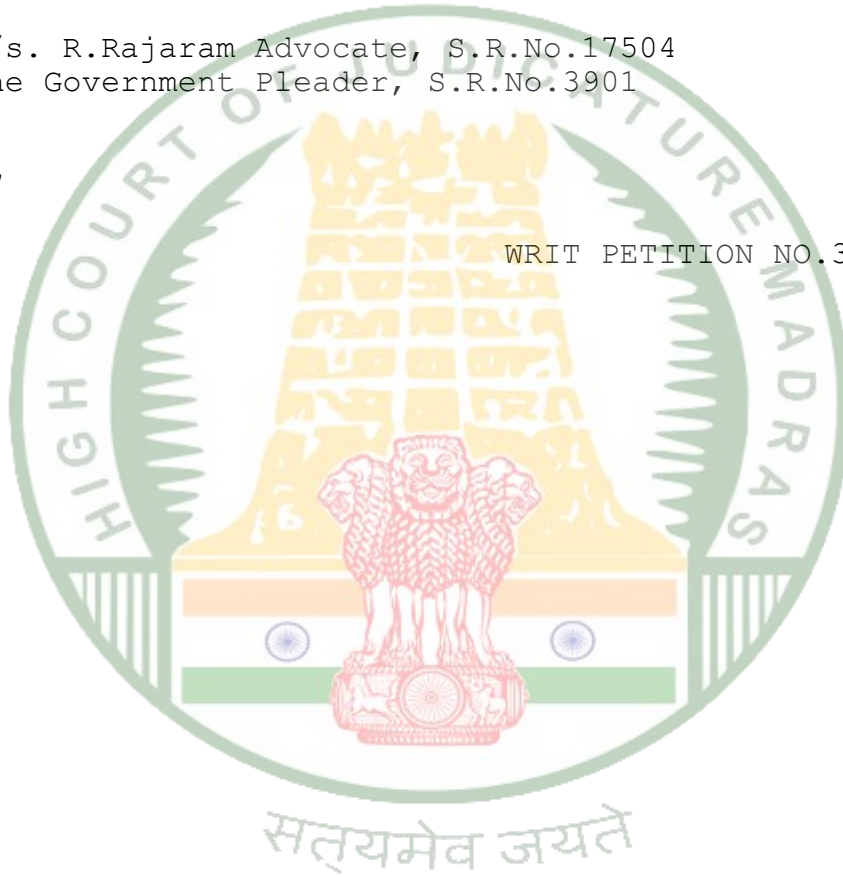
To

The Additional Registrar of Trade Union-1,
D.M.S. Complex,
Teynampet, Chennai - 600 006.

+1cc to M/s. R.Rajaram Advocate, S.R.No.17504
+1cc to the Government Pleader, S.R.No.3901

NR(CO)
Eu 13.4.17

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