

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED :22.11.2017  
CORAM  
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM  
W.P.No.25849 of 2010  
and  
M.P.No.1 of 2010

Chennai Petroleum Employees Union  
[Regn. No.3046 /CNI]  
Rep by its General Secretary  
New No.9, Old No.6  
Kachaleeswarar Agraharam  
Chennai - 600 001.

.. Petitioner

vs.

1.The Management of Chennai Petroleum  
Corporation Limited  
Rep by its Managing Director  
Manali, Chennai - 600 068.

2.Madras Refineries Ambedkar Employees Union  
Chennai Petroleum Corporation Limited  
Manali, Chennai - 600 068.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent management to forthwith accord recognition to the petitioner union as the sole bargaining agent of the confirmed workers of the respondent company.

For Petitioner :Mr.Ramapriya Gopalakrishnan

For Respondents :Mr.Sanjay Mohan [For R1]  
For M/s.Ramasubramanian Associates  
Mr.C.T.Murugappan [For R2]

O R D E R

The relief sought for in this writ petition is for a direction to direct the first respondent management to forthwith accord recognition to the petitioner union as the sole bargaining agent of the confirmed workers of the respondent company.

2.The learned counsel appearing for the petitioner states that the petitioner union is the major union in the respondent

management and they must be declared as the sole bargaining agent.

3. Forming of an Union or association by a group of citizen is a fundamental right enshrined under the Constitution of India. Freedom of forming an association by the citizen in accordance with law cannot be questioned. So also if there are more than one union and if the respondent management is of the opinion that such unions are having considerable number of members, then it is for the authority competent to take a decision, which all are the unions to be invited for negotiations and for settlement in accordance with law.

4. India, being progressive and a country of vibrant democracy, no union can claim that they must be declared as a sole union for the purpose of bargaining. There cannot be any preference in this regard for a particular union alone for participating in negotiations and settlements with the management. Our great nation being a largest and vibrant democracy in the world is consistently insisting equal opportunity to the citizen for effective participation in the decision making process at all levels and the same must prevail even in unions and associations.

5. Thus, the very relief as such sought for in this writ petition portrays an autocratic attitude of the writ petitioner union, which can never and ever be encouraged or entertained by the constitutional Courts. Monopoly can never be considered as a best policy in a democratic country. Every citizen of this country is to be treated equally and every citizen is important and no one should be treated less than any other citizen and the class of equality under the Constitution must be progressively developed, so as to eradicate a minor level of inequality even now prevailing in Indian society. This being the ultimate spirit of the preamble of our Indian Constitution and the Constitutional Mandate is also unambiguous in this regard, this Court is of an opinion that it is the duty of all the citizen to strive to achieve the ultimate Constitutional goal for an effective and a model society in the world.

5(a). This Court is duty bound to remind that the Constitutional Courts though repeatedly considering the rights of the citizen and the duties of the citizens are rarely dealt with even by the Constitutional Courts. Probably, the occasion would not arise frequently. This Court takes this opportunity to remind that the fundamental duties requires every citizen to abide by the Constitution and respect its philosophies and ideologies and the institutions constituted thereon, including the National Flag and National Anthem.

6. When the constitution itself was formulated WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens.

7. The duties are enumerated precisely in Article 51 [A] of the Constitution of India and those are extracted hereunder:

51A. It shall be the duty of every citizen of India—  
(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;  
(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;  
(c) to uphold and protect the sovereignty, unity and integrity of India;  
(d) to defend the country and render national service when called upon to do so;  
(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;  
(f) to value and preserve the rich heritage of our composite culture;  
(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;  
(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;  
(i) to safeguard public property and to abjure violence;  
(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;  
\*[(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.]

It is needless to state that the above enumerated fundamental duties enshrined under the Constitution are to be enforced as possible as they are. The citizen of this Country should be proud of performing the duties enshrined under the Constitution and the same will not only enrich the society, but certainly lead to an excellent human approach and a welfare society. Thus, this Court is bound to remind that the

petitioner Union being functioning for the welfare of its members to see that all the labourers working under the particular management or an institution are also of important and their rights also to be protected and their right to participate in the process of negotiations and settlements also to be respected. Mutual respect amongst the citizen are also the fundamental duty and such mutual respects will lead to best society, wherein people can live in peace and harmony.

8. In view of the discussions made above, this Court is of the opinion that the relief as such sought for is innocuous and is very much against the basic principles enunciated in the Constitution. Thus, no further adjudication needs to be entertained in respect of the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

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Manali, Chennai - 600 068.

+1 cc to M/s.S.Ramasubramaniam & Associates sr 83083  
+1 cc to M/s.M.Saravanan Advocate sr 83363  
+1 cc to M/s.K.Sudalaikannu Advocate sr 83448

W.P.No.25849 of 2010

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