

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.38647 of 2016
& WMP No.33106 of 2016

1. Chennai Yetrumathi Valaga
Uzhiyargal Matrum Podhu Thozhilalar Sangam ,
rep. by its President , No.15 Kannan Street,
Kadaperi, Tambaram, Chennai-600 045. .. Petitioner

Vs.

1. State of Tamil Nadu, rep. by its
Secretary to Government,
Department of Labour and Employment,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Deputy Commissioner of Labour-2,
Department of Labour, DMS Compound,
Teynampet, Chennai-600 006.
3. Venture Power Systems India Private Limited,
rep. by its Managing Director,
D6 Phase II, Zone-B, Madras Export Processing
Zone, Tambaram, Chennai-600 045. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 2nd respondent to arrive at a settlement with the petitioner and 3rd respondent and in case of failure of conciliation submit a report to the 1st respondent and the 1st respondent may be directed to refer the dispute for adjudication under section 10 (1) of the Industrial Disputes Act, 1947.

For Petitioner : Mr.N.G.R.Prasad for
M/s Row and Reddy

For Respondents : Mr.K.J.Sivakumar,
Government Advocate for R1 & R2

Mr.S.V.Jayaraman, S.C., for
Mr.K.V.Shanmuganathan for R3

ORDER

The petitioner herein is a union of employees working with the third respondent. The petitioner raised a dispute before the second respondent, which consists of many demands, including payment of higher salary to their employees. The conciliation proceedings are going on before the second respondent as seen from the conciliation notices dated 29.04.2014, 28.11.2015 and thereafter, in the month of February, 2016.

2. Now, the present writ petition has been filed seeking direction to the second respondent to arrive at a settlement with the petitioner and the third respondent and in case of failure, submit a failure of conciliation report to the first respondent with further direction to the first respondent to refer the dispute for adjudication under Section 10(1) of the Industrial Disputes Act, 1947 to the concerned Labour Court.

3. The learned counsel appearing for the petitioner would submit that apart from the prayer as sought for, the third respondent will have to be prevented from entering into any settlement with any other Union or an employee either under Section 12(3) or 18(1) of the Industrial Disputes Act, 1947.

4. The learned Senior Counsel appearing for the third respondent would submit that while there is no difficulty in altering the prayer as sought for, the incidental relief sought for by the petitioner to restrain it from any settlement, cannot be granted being opposed to law.

5. Considering the above, this Court is of the view that inasmuch as the prayer as sought for by the petitioner with respect to the conclusion of the conciliation proceedings and sending of the report to the first respondent with the further direction to the first respondent to refer the dispute to Labour Court, under such an eventuality, for adjudication under Section 10 of the Industrial Disputes Act, 1947 has to be granted and accordingly, the same is granted. The second respondent is directed to arrive at a settlement in the event of an agreement between the petitioner and the third respondent or send a failure to conciliation by way of a Report to the first respondent within a period of six weeks from the date of receipt of a copy of this order. If such a report is received as indicated above by the first respondent, the Government is directed to refer it for adjudication under Section 10 of the Industrial Disputes Act, 1947, within a period of six weeks thereafter.

The request made by the learned counsel for the petitioner that till such time, the third respondent shall not enter into any settlement with any Union or an individual cannot be considered by this Court at this stage. This Court does not want to pass such an order anticipating any action which can be termed as unlawful. No such order also can be passed prohibiting some one, who is otherwise empowered to do so under law. Accordingly, the request made by the petitioner in that regard is not feasible of consideration by this Court.

6. The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Labour and Employment,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Deputy Commissioner of Labour-2,
Department of Labour, DMS Compound,
Teynampet, Chennai-600 006.
3. Managing Director,
Venture Power Systems India Private Limited,
D6 Phase II, Zone-B, Madras Export Processing
Zone, Tambaram, Chennai-600 045.

+1cc to Mr.Row & Reddy, Advocate, S.R.No.18907
+1cc to Mr.K.V.Sanmuganathan, Advocate, S.R.No.18908

W.P.No.38647 of 2016

kk(co)
rmp(12/04/17)