

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2017

CORAM:

The Hon'ble Mr.Justice M.M.SUNDRESH

W.P.No.44360 of 2016

Workmen of Sodecia India Private Limited
through Sodecia India Thozhilalar
Sangam, Rep. by its General Secretary ... Petitioner

Vs

- 1.The Government of Tamil Nadu
rep. by its Principal Secretary,
Department of Labour and
Employment, Chennai - 9.
- 2.The Management of Sodecia India
Private Limited,
No.286, Mettukkuppam Road,
Vanagaram, Chennai - 95. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with G.O.(D) No.185 Labour and Employment (A2) Department dated 04.04.2016 and quash the same and direct the first respondent to refer the disputes that were declined to be referred under the aforesaid Government Order.

For Petitioner.. Mr.V.Prakash, Sr. Counsel
for Mr.K.Sudalaikannu

For Respondents.. Mr.K.J.Sivakumar,
Govt. Advocate for R1

ORDER

Challenging the order of the first respondent dated 04.04.2016 and also for a direction to the first respondent to refer the disputes that were declined to be referred, the present writ petition has been filed.

2.Pursuant to the disputes raised by the petitioner, the Labour Officer filed a failure report with respect to the conciliation proceedings. On receipt of the same, the first respondent has declined the reference on the ground that some of them are pertaining to conditions of service and the other issues can be dealt with under the Factories Act before the Inspector of Factories.

3.Heard the learned senior counsel for the petitioner. Despite service of notice and the name of the second respondent having been printed in the cause list, none appears for the second respondent.

4.As rightly submitted by the learned senior counsel for the petitioner, when there are disputed questions of fact, the first respondent is bound to refer the dispute to the jurisdictional Court/Tribunal. In other words, he cannot go into the merits of the case. A reference is something which has to be made as a matter of course.

5.In such view of the matter, the order impugned is set aside and consequently the first respondent is directed to refer the disputes to the appropriate Forum within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mmi

To
The Principal Secretary to Government,
Department of Labour and
Employment, Chennai - 9.

+ 1 cc to Mr.K. Sudalaikannu, Advocate Sr.18077
+ 1 cc to the Government Pleader Sr.18303

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EV(CO)
EU 18.4.17