

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.32694 of 2017 & W.M.P. Nos.36011 & 36868 of 2017

The Management of

Caterpillar India Pvt. Ltd.

Melnallathur

Tiruvallur 602 004

represented by its Authorised Signatory

Petitioner

vs.

1 The Inspector of Police
Thiruvallur Taluk
Thiruvallur District
Thiruvallur

2 Caterpillar India Pvt. Ltd. Workers' Union
represented by its General Secretary
Melnallathur
Thiruvallur 602 004

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to provide adequate police protection for ingress and egress of vehicles and people from in and out of the factory premises and further vacate the trespassing workmen by ensuring that no striking workers assemble illegally in any form within the radius of 500 metres from the petitioner's factory premises, viz., Melnallathur Village, Thiruvallur, pursuant to the petitioner's complaint dated 11.12.2017.

For petitioner Mr. V. Karthic, Senior Counsel
for M/s. T.S. Gopalan & Co.

For R1 Mr. C.Raghavan,
Government Advocate

For R2 Mr. Balan Haridas

ORDER

This writ petition has been preferred seeking a writ of mandamus directing the first respondent to provide adequate police protection for ingress and egress of vehicles and people from in and out of the factory premises and further vacate the trespassing workmen by ensuring that no striking workers

assemble illegally, in any form, within the radius of 500 metres from the petitioner's factory premises, viz., Melnallathur Village, Thiruvallur, pursuant to the petitioner's complaint dated 11.12.2017.

2 When this matter came up for admission on 15.12.2017, this Court passed the following order:

"Mr.S.Babu, learned Government Advocate takes notice for the first respondent. Notice to the second respondent returnable by 25.01.2018. Private notice is also permitted.

2. The petitioner had earlier moved this Court, seeking for a direction to refrain the trade union from indulging in any illegal strike. This court, by its earlier order dated 25.10.2017, in W.P.No.27413 of 2017 refrained the workers of the second respondent from sitting inside the factory premises, based on the undertaking given by the trade union that they will not sit inside the factory premises after working hours. It is now brought to my notice that the writ petition came to be subsequently allowed on 29.11.2017.

3. The learned senior counsel for the petitioner submitted that the second respondent has now published a notice on 11.12.2017 calling for a strike. It is also brought to the notice of this Court that the conciliation in connection with the dispute of the workers is pending before the Assistant Commissioner of Labour - II, Chennai. While that being so, it would be improper and illegal to permit the workers to go on a strike pending conciliation proceedings.

4. In these circumstances, there shall be an interim direction directing the first respondent to provide adequate police protection for ingress and egress of vehicles and people from in and out of the factory premises and further vacate the trespassing workmen by ensuring that no striking workers assemble illegally in any form within the radius of 200 meters from petitioner's factory premises namely Melnallathur Village, Thiruvallur District till 25.01.2018."

3 C. Udayakumar, General Secretary of the second respondent Union, has filed an additional affidavit dated 27.02.2018, wherein, it is stated as under:

"1 I am the General Secretary of the petitioner

union in the above W.M.P. and second respondent in W.M.P. No.36011 of 2017 as well as in W.P. No.32694 of 2017 and I am well acquainted with the facts and circumstances of the case. I am authorised to file this affidavit on behalf of the Union.

2 It is submitted that the Union has not issued any strike notice and has no intention to go on strike without following due process of law. The Union has got a vacant plot which is opposite to the factory and the same is private property of the union. We want to conduct meeting in our private property. The meeting of the members of the petitioner union in their private property will not affect the ingress and egress to the factory. The meeting will not be near the company gate. There will not be any hindrance to free movement of the vehicles in the road opposite to the factory. The union cannot be prevented by the police to hold its meeting in its own property, particularly, when there will not be any inconvenience or disturbance to the public or to the company in any manner."

4 Per contra, Mr. V. Karthic, learned Senior Counsel appearing for the petitioner Management submitted that the property that is owned by the second respondent Union is situate opposite the factory gate and if the members of the second respondent union congregate, there is every possibility of the group spilling over on the National Highway and preventing ingress and egress to the petitioner's factory and there will also be hindrance to free flow of traffic.

5 Be that as it may, the fact remains that the General Secretary of the second respondent Union has filed the aforesaid affidavit undertaking that the second respondent Union will have meeting in their own property and that they will not cause any hindrance either to the petitioner Management or to the general public.

6 The learned Additional Government Pleader submitted that, at present, there is no agitation or law and order problem near the petitioner's factory.

7 Considering the facts and circumstances of the case, it is directed that the police shall ensure that any meeting convened by the second respondent Union in their own property, as stated above, does not prevent free ingress and egress into the petitioner's factory and also hinder free flow of traffic in the adjoining National Highway.

With the above direction, this writ petition stands disposed of. Costs made easy. Connected W.M.Ps. are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

1. THE INSPECTOR OF POLICE
THIRUVALLUR TALUK
THIRUVALLUR DISTRICT
THIRUVALLUR

2. THE ASST. COMMISSIONER OF LABOUR - II, CHENNAI.

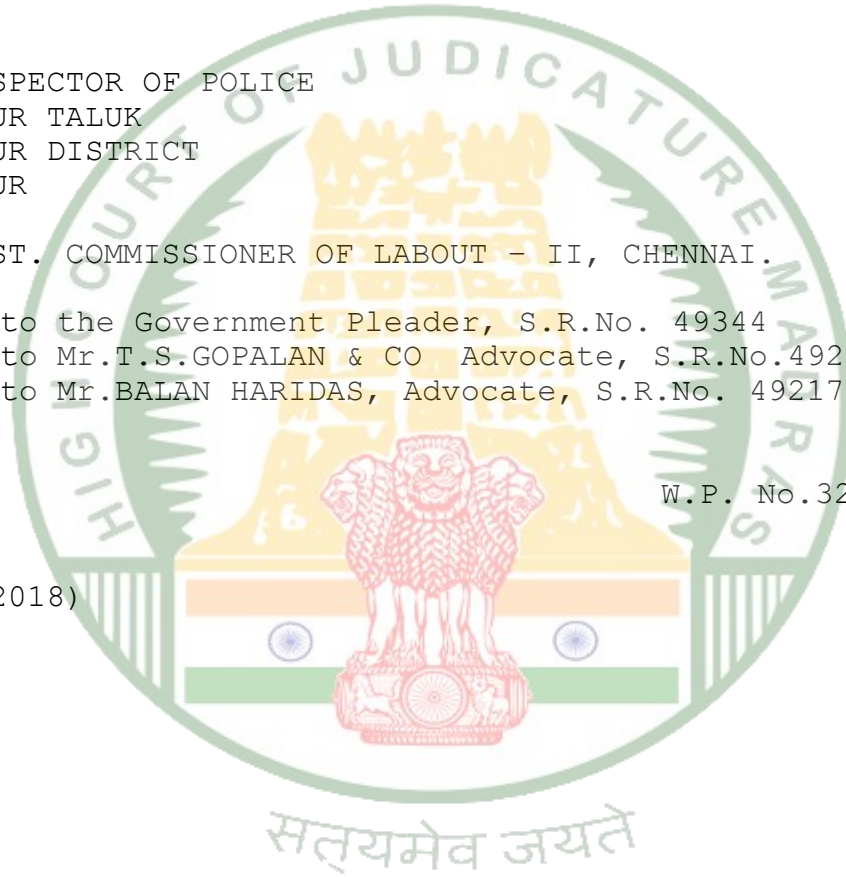
+1cc to the Government Pleader, S.R.No. 49344

+1cc to Mr.T.S.GOPALAN & CO Advocate, S.R.No.49227

+1cc to Mr.BALAN HARIDAS, Advocate, S.R.No. 49217

W.P. No.32694 of 2017

KK(CO)
TR(02/08/2018)



WEB COPY