

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2018

CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.4533 of 2015

and

M.P.No.1 of 2015

M/s.Obli Granites
Rep.by its Managing Director,
Mr.O.Ulaganathan,
Sellapillaikuttai
Omalur(TK), Salem - 636 304.Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Salem.

2.The Secretary,
Granites Workers Progressive Union,
Vellakkalpatty,
Salem.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction, particularly in the nature of Writ of Certiorari, calling for the record of the 1st Respondent in I.D.No.225 of 2010 and quash its Award dated 17.11.2014.

For Petitioner :Mr.S.Ravindran, Senior Counsel
for M/s.S.Bazeer Ahamed

For Respondents:R1-Labour Court
R2-No appearance

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O R D E R

The Award passed in I.D.No.225 of 2010 dated 17.11.2014 is under challenge in this writ petition.

2.The learned senior counsel appearing on behalf of the writ petitioner made a submission that it is a classic case, where

there is no General Body or any such resolution authorizing the 2nd respondent Union to raise the disputes on behalf of the labourers working in the writ petitioner organization.

3.It is contended that the counter statement filed even before the Labour Court, Salem, the Management raised a point that there is no collective will on the part of the employees working in the writ petitioner organization. Further, it is contended that there is no General Body Meeting conducted by the 2nd respondent in respect of the labourers and their issues in connection with their employment in the writ petitioner organization. In the absence of any such authorization by way of a resolution through General Body, the 2nd respondent has no locus standi to raise a dispute nor the Labour Court can entertain such disputes under the provisions of the Industrial Disputes Act.

4.The learned senior counsel further states that there was a cordial relationship during the relevant point of time between the Management and its employees, there was no such serious dispute prevailed when the dispute was raised by the 2nd respondent. Thus, the very filing of the petition before the Labour Court is on extraneous considerations and not on the genuine issues.

5.Though the writ petitioner had raised the objections in respect of the competency of the 2nd respondent Union to maintain a dispute and the same had not been considered by the Labour Court in its Award. The grounds raised before the Labour Court in this regard were not at all considered and there is no finding in this regard. The 2nd respondent Union miserably failed to file any document or to establish that they are properly authorized by the workmen of the writ petitioner organization before the Labour Court. During the cross-examination of the P.W.1, the following facts were admitted.

(a)He is not an office bearer of the petitioner Union

(b)There are about two hundred workmen working in the writ petitioner factory.

(c)It has not been stated that how many workmen are members of the respondent Union.

(d)The petitioner has not given any authorization letter to give evidence.

(e)It is not correct to state that before sending Charter of Demands to the management no resolution was passed in the trade union.

6.The learned senior counsel strenuously contended that when the 2nd respondent Union is questioning the Management, the representative capacity of the Union has to be properly established at the preliminary stage. In the absence of establishing the locus standi, the Union has no business to interfere with the administrative affairs of the writ petitioners factory. In all respects, the 2nd respondent Union is to be treated as an alien and therefore, the present Award is not only perverse but absolutely in violation of the basic principles of Labour jurisprudence.

7.In spite of the specific allegation raised by the writ petitioner Management before the Labour Court and adducing evidences and cross-examinations of P.W.1, the Labour Court has totally failed to make a finding in this regard. In the absence of a specific finding in respect of the locus standi point raised by the writ petitioner Management, the Award can never be implemented nor taken into account for any other purpose.

8.This Court is of an opinion that in spite of the issuance of Rule Nisi by this Court and the notice was served to the 2nd respondent, none appeared before this Court on behalf of the 2nd respondent. The notice had been served to the respondents on 20.03.2015. Thus, the 2nd respondent has not shown any interest even to defend the present writ petition filed challenging the Award passed by the Labour Court, Salem in I.D.No.225 of 2010.

9.Thus, this Court has no option but to consider the grounds raised on behalf of the writ petitioner in the present writ petition. In this view of the matter, the Award passed by the Labour Court in I.D.No.225 of 2010 dated 17.11.2014 is quashed and the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar(CS VII)

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Sub Assistant Registrar

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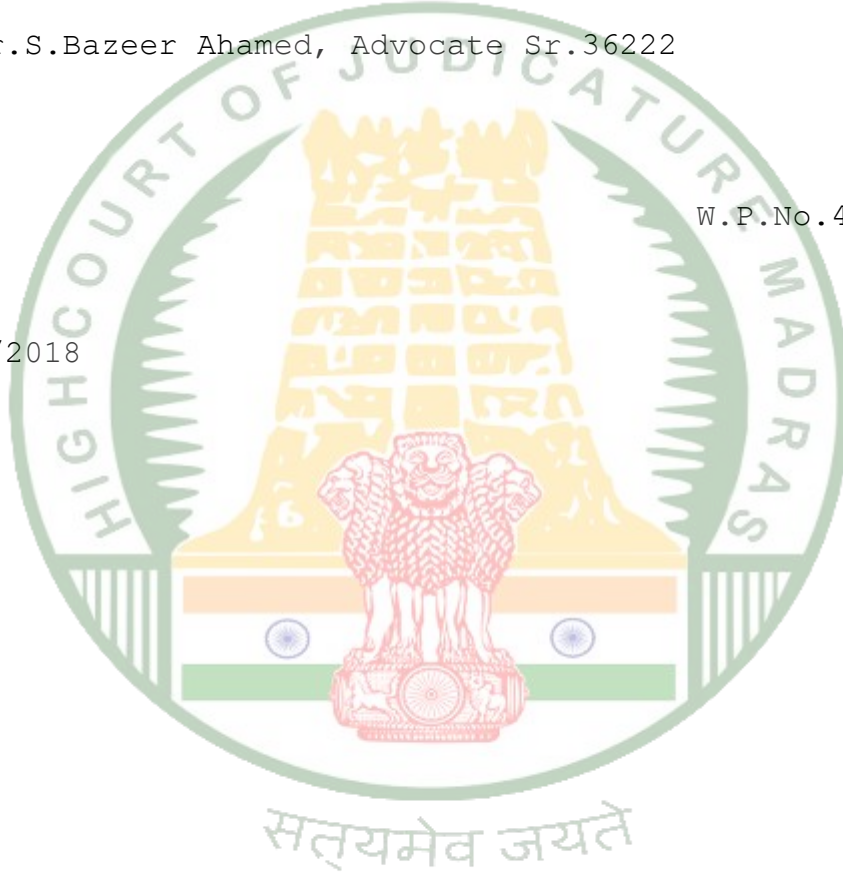
To

The Presiding Officer,
Labour Court,
Salem.

+1cc to Mr.S.Bazeer Ahamed, Advocate Sr.36222

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