

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO.18430 OF 2018

The Management

Myoung Shin India Automotive Pvt Ltd.,

rep.by its Factory Manager, Mr.T.Ramkumar

Mannur Village, Valarpuram PO, Sriperumbudur Tk

Kancheepuram District.

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Petitioner

Vs

1.State of Tamil Nadu rep.by its Secretary

Labour and Employment Department

Fort St.George, Chennai 600 009.

2.Ondrupatta Thozhilalar Kuttamaipu

Rep.by its Secretary, Regd.no.2657/CNI No.149

Thambu Chetty street, C.J.Complex, 4th Floor

Chennai - 600 001.

3. Aparajitha Dynamic Synergies Pvt Ltd

No.10, Venkatraman Road, Kamala 2nd Street

Chinna Chokkikulam, Madurai - 625 002.

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Respondents

For Petitioner

:

Mr.S.Ravindran, Sr.Counsel

For Respondents

:

Mr.M.Elumalai - for R1

Mr.P.Ganeshram - for R2

Mr.R.Jayaprakash - for R3

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in G.O. (D) No.637, Labour and Employment (A2) department, and quash its order dated 30.10.2017 and direct the first respondent to issue fresh order of reference by including third respondent in respect of the dispute raised by the second respondent union.

O R D E R

The petitioner herein has filed the writ petition seeking to quash G.O.(D) No.637, Labour and Employment (A2) department, and quash its order dated 30.10.2017 and direct the first respondent to issue fresh order of reference by including third respondent in respect of the dispute raised by the second respondent union.

2.The facts of the case is that the petitioner was engaged in the services of the third respondent for providing contract employees. On 31.03.2017, the contract between the petitioner and the third respondent came to an end. The second respondent union raised an industrial dispute in respect of the service conditions of 45 workmen of the third respondent. By virtue of G.O.(D) No.637, Labour and Employment (A2) department dated 30.10.2017 , Government of Tamil Nadu has listed out names of 45 workmen and ordered that the issue as to whether the claim made by the Union that the 45 workmen named therein were primarily employed by the management or their inclusion is a sham and nominal one for name sake is a triable issue, to be decided by the Industrial Tribunal .

3. It is claimed that in G.O.(D) No.637, Labour and Employment (A2) department dated 30.10.2017, the third respondent herein viz., Aparajitha Dynamic Synergies Pvt Ltd, No.10, Venkatraman Road, Kamala 2nd Street, Chinna Chokkikulam, Madurai - 625 002 is not shown as a party and R3 has to be impleaded. The second respondent herein filed a memo stating that they have no objection to implead the third respondent in I.D.No.43 of 2017.

4.Learned counsel representing the third respondent submits that the third respondent should be given an opportunity to agitate the issue on merits before the Industrial Tribunal.

4.1. From the facts alleged, it is clear that the third respondent would have locus standi to agitate the issue involed.

5. Under the circumstances, the Government is directed to implead the third respondent as a party, whose description is cited supra, and thereafter refer the matter. It is made clear that the third respondent shall be given an opportunity to agitate the matter on merits before the Industrial Tribunal. The Government shall complete the task within a period of one month from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

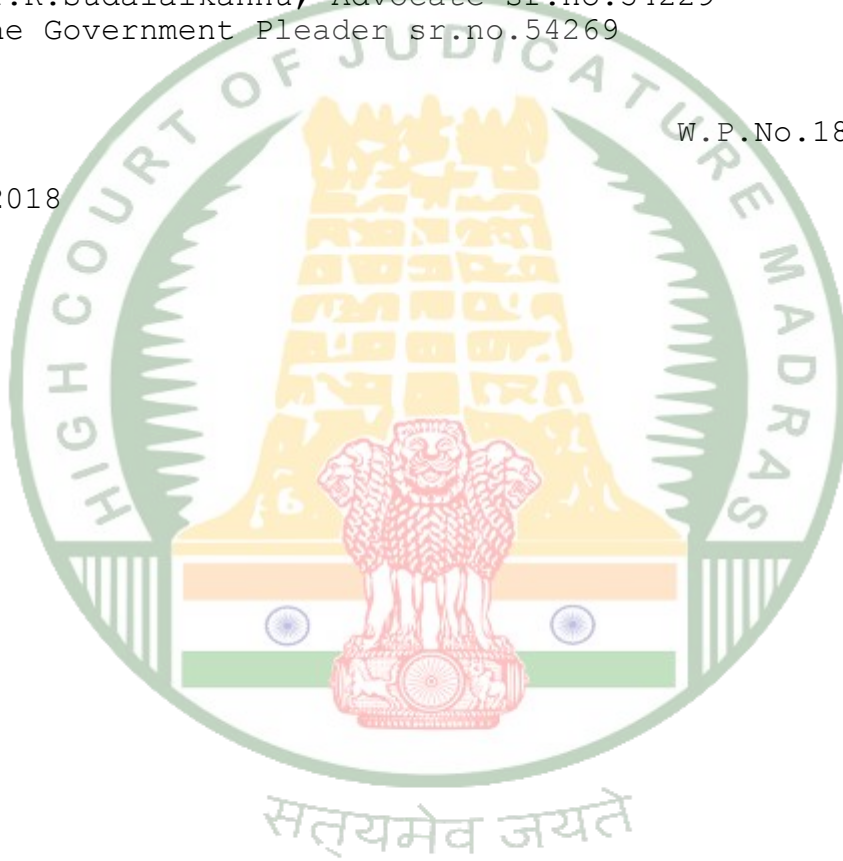
1.The Secretary,
State of Tamil Nadu,
Labour and Employment Department
Fort St.George, Chennai 600 009.

2.The Registrar Industrial Tribunal,
Chennai.

+lcc to Mr.Bazeer Ahamed, Advocate sr.no.53788
+lcc to Mr.R.Jayaprakash, Advocate sr.no.54171
+lcc to Mr.K.Sudalaikannu, Advocate sr.no.54229
+lcc to The Government Pleader sr.no.54269

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nr 06/09/2018



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