

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 9.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.29573 of 2018
and W.M.P.No.34535 of 2018

The Management
Neelamalalai Agro Industries Ltd. Rep by its
Chief Officer HR and Corporation Affairs
(Plantations) Katary Estate Katary Post
Coonoor The Nilgiri District. ... PETITIONER

Vs.

- 1 The Assistant Commissioner of
Labour - Conciliation Coonoor,
The Nilgiris 643 101
- 2 The Joint Commissioner of Labour,
Coonoor, The Nilgiris 643 101
- 3 Tamizhaga Makkal Munnetra Kazhagam
Rep by its General Secretary,
167 A Lakshmi Niwas Cottage,
Near Hill Bunk Club Road,
Ooty The Nilgiris 643 001
- 4 Anna Thozhirsanga Peravai -
Thotta Thozhilalar Pirivu (ATP) Regd No.
183/NLG 123/2 rep by its General Secretary
Oottupatarai Coonoor 643 105,
The Nilgiris Tamil Nadu.
- 5 The Nilgiri Dist. Estate Workers Union (N.D.E.W)
Regd No.616, rep. by its General Secretary,
(Affiliated to I.N.T.U.C. and I.U.F)
Kamarajar Nilayam, Rokeby Coonoor 643 101
The Nilgiris Tamil Nadu
- 6 Tamil Nadu Thotta Thozhilalar Munnetra sangam
Regd No.85/NLG 10 rep. by its General Secretary,
(Affiliated with L.P.F Labour Progressive Federation)
Tourist Lodge Bus Stand,
Coonoor 643 102
The Nilgiris District. ... RESPONDENTS

Prayer: Writ petition filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ of
Mandamus, forbearing the 1st and 2nd respondents from allowing

the Office bearers of the 3rd respondent to participate in the meeting pursuant to conciliation proceedings number C/5352/2018 in respect of dispute raised by respondents 4 to 6.

For Petitioner : Mr.Ravindran, Sr. Counsel for
Mr.S.Bazeer Ahamed
For Respondent No.1&2: Mr.M.Karthikeyan, A.G.P.

O R D E R

The petitioner has declared statutory bonus to the workmen of the two estates namely, Katary and Sutton Estates at 8.33% of their earned wages for the financial year 2017-18. By letter, dated 22.10.2018, the respondents 4 to 6 have claimed higher quantum of the bonus from the petitioner apart from certain other issues. The third respondent is not even a trade union in terms of Section 2(h) of the Trade Union Act, 1926 has created industrial unrest during 23.10.2018 to 26.10.2018 in the two estates belonging to the petitioner. Therefore, the petitioner has lodged a complaint to the Sub Inspector of Police, Kullakombai Police station for adequate police protection. Since no response from the aforesaid police, the petitioner has filed W.P.No.28802 of 2018. By order, dated 31.10.2018 appropriate orders have been passed by this Court. On receipt of written communication, the second respondent along with the first respondent held conciliation meeting on 29.10.2018, pursuant to the demands placed by the respondents 4 to 6, in terms of their letter, dated 22.10.2018. On 29.10.2018, the respondents 4 to 6 were present and also one Siva, office bearer of the 3rd respondent also present in the said meeting and the meeting was adjourned to 2.11.2018. On that day also, office bearers of the third respondent attended the conciliation meeting. On 2.11.2018 petitioner did not attend the meeting for the reason that the second respondent allowing the third respondent to attend conciliation meeting in respect of bonus dispute raised by the respondents 4 to 6. In terms of Section 4 of the Trade Union Act, 1926, no trade union of workmen could be registered unless atleast 10% or 100 workmen employed in the establishment. Section 2(qq) of the Industrial Disputes Act defines trade union meaning to be a trade union registered under the Trade Union Act, 1926. Therefore, the third respondent is not a registered union and hence, they cannot be permitted to attend the meeting. Therefore, the petitioner has filed the present writ petition before this Court for mandamus, restraining the third respondent from participating in the conciliation meeting.

2. The learned Additional Govt. Pleader takes notice for the respondents 1 and 2 and prayed time to get instructions. The case passed over, again when the matter is called at 2.15 p.m., on instructions, the learned Additional Govt. Pleader would submit that conciliation notice was sent only to the respondents 4 to 6 and no notice was sent to the third

respondent for the conciliation meeting to be held on 12.11.2018 at 10.00 a.m. Apprehending that the third respondent will also participate in the meeting, the petitioner has filed the present writ petition. Hence, the writ petition is liable to be dismissed.

3. Recording the submission made by the learned Additional Govt. Pleader, writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Assistant Commissioner of Labour - Conciliation
Coonoor,
The Nilgiris 643 101.
 - 2 The Joint Commissioner of Labour,
Coonoor, The Nilgiris 643 101.
- + 1 cc to Mr. S. Bazeer Ahamed, Advocate Sr.76963
+ 1 cc to Mr. Government Pleader Sr.77050

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VGI (CO)
EU(27/11/2018)

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