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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.03.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.3574 of 2015
and
M.P(MD)No.1 of 2015

The Superintending Engineer,
Karur Electricity Distribution Circle,
Karur. .. Petitioner

Vs.

The Inspector of Labour,
Karur. .. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondent from passing order by considering the certificate which is banned under Circulars dated 12.06.1987, 13.02.2001 and 09.09.2005 and consequently direct the respondent to reconsider the orders passed on or after 01.01.2001.

For petitioner : Mr.Anand Gopalan for
M/s.T.S.Gopalan and Co.,
For respondent : Mrs.S.Srimathy
Spl. Govt. Pleader

ORDER

The main prayer in the writ petition is for forbearing the respondent, Inspector of Labour, Karur from passing order under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 by considering certificates which have been banned under Circulars dated 12.06.1987, 13.02.2001 and 09.09.2005 and consequently for consequential direction to reconsider the orders passed on or after 01.01.2001.

2.The respondent/Inspector of Labour, Karur is an authority constituted by statute. His function is to consider the applications under Section 3 filed under the Act. He is exercising a quasi-judicial function. Once he passes an order either conferring the permanent status or denying, he becomes functus officio. The power to consider an order already passed or to review the same can be exercised only if the statute specifically provides for the same. Under the statutory scheme set out in the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, no such power has been conferred on the Inspector of Labour/Factories. When such power of reconsideration or review has not been conferred, this Court cannot give a direction

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for exercising a non-existent power. Likewise, this Court would not be justified in giving a direction to the said authority not to consider certificate, which have been banned. If according to the employer, the said certificates are not admissible in law, the same should be made the ground of attack while mounting a challenge to the final order passed by the authority.

3.Therefore, leaving it open to the petitioner to raise the same as a ground while challenging the order passed in favour of the claimants, the writ petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

The Inspector of Labour,
Karur.

+1cc to M/S.T.S.Gopalan, Advocate SR.No. 57045
+1cc to Special Government Pleader, SR.No. 57663

ORDER MADE IN
W.P. (MD) No.3574 of 2015
and
M.P(MD)No.1 of 2015
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JM/RP/SAR 3/24.07.2018/2P/4C

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