



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM

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**THE HONOURABLE MR.JUSTICE V.PARTHIBAN**

W.P. (MD) No.20095 of 2018

and

W.M.P (MD) Nos.17853 and 17854 of 2018

1.K.Vijayakumar  
2.Ganapathy  
3.S.Prabu

... Petitioners

Vs.

1.General Manager, (HR)  
Bharat Heavy Electricals Ltd.,  
Trichirappalli.

2.The Deputy Commissioner of Labour,  
And Additional Registrar of Trade Unions  
Trichirappalli.

3.The Election Officer,  
Boilder Plant Dr.Ambedkar Employees Union,  
Opposite to Building 79,  
BHEL Factory Campus,  
Trichy - 14.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the third respondent to accept the nomination of the first petitioner for the post of Treasurer, nomination of the second petitioner for the post of Vice President, nomination of the third petitioner for the post of Assistant Secretary for the election to be held on 22.09.2018 and direct the third respondent to conduct the election under the supervision of the second respondent.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.S.Angappan  
Govt. Advocate (for R1 and R2)

Mr.M.Saravanan (for R3)

**O R D E R**

The above writ petition has been filed seeking to challenge the election notification issued by the third respondent in regard to the conduct of the election to the Boiler Plant Dr. Ambedkar Employees' Union.

2. The petitioner appears to have some dispute with regard to the finalization of the voters list and the nomination of members to various office of the Union. Since the third respondent is only a private trade union, writ would not lie against such Union and the third respondent is not amenable to the writ jurisdiction of this Court. In fact, under similar circumstances, last year, a similar writ petition has been filed, which was dismissed by the learned Single Judge of this Court on the ground that once the process of election was initiated, the same cannot be interfered with. However, on appeal, the Division Bench of this Court in W.A (MD) No. 240 of 2015 dated 15.03.2017 has confirmed the order passed by the learned single Judge, but further held that the writ petition cannot be maintained against the private trade Union. The observations of the Hon'ble Division Bench of this Court as found in paragraph 5 to 7 are extracted hereunder:-

"5. By the impugned order, the learned Single Judge dismissed the Writ Petition on the ground that the appellant / petitioner has approached this Court, after commencement of the election process and the members were also elected.

6. The view taken by the learned Single Judge is perfectly legal as the Court cannot interdict the election process, after commencement. One more reason to reject this appeal is on the ground that the Writ Petition itself is not maintainable, since the relief sought for is against a Trade Union, which is a private body. It may be true that the members of the Trade Union are employees of BHEL Company and that by itself would not be sufficient to maintain the Writ Petition against the Employee's Union. The impleadment of the Deputy Commissioner of Labour and the Management of Bharat Heavy Electricals Limited cannot give a colour as if the Writ Petition is maintainable and it would in no way improve the case of the appellant / petitioner.

7. For the above reasons, the Writ Appeal fails and the same is dismissed. It is made clear that in the event the appellant chooses to avail other remedies, which are available to him, the observation made in this Judgment will not prejudice the rights of the appellant / petitioner. No costs. Consequently, connected Miscellaneous Petition is closed."

3. The above view taken by the Hon'ble Division Bench of this Court is in respect of the election to the same third respondent Union and the petitioner had once again attempted to bring the



private dispute within the ambit of Article 226 of the Constitution of India. Therefore, this Court is of the considered view that the writ petition, as it is, is not maintainable and therefore, the writ petition stands dismissed.

4. Although this Court is inclined to impose exemplary cost on the petitioner for having invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for settlement of a private dispute, however, considering the status of the petitioner being employee of the first respondent limited, this Court is restrained from imposing any costs. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Deputy Commissioner of Labour,  
And Additional Registrar of Trade Unions  
Trichirappalli.

2. The Assistant Registrar (Writs),  
Madurai Bench of Madras High Court, Madurai.

+1 CC To MR.M.SARAVANAN, Advocate SR. NO. 85119  
+1 CC TO The Special Government Pleader SR.NO. 85634

W.P. (MD) No. 20095 of 2018  
and  
W.M.P (MD) Nos. 17853 and 17854 of 2018  
19.09.2018

SKN  
TR/SKN/SAR-I (25.10.2018) 3P 5C