

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.18461 of 2011**

**ORDER :**

This writ petition is filed seeking a writ of mandamus declaring the action of the 1<sup>st</sup> respondent in issuing the proceedings bearing No.L1/8022/2010, dated 16.06.2011 as illegal, arbitrary and contrary to the provisions of Industrial Disputes Act and consequently, quash the same.

2. Heard Sri C.Niranjana Rao, learned counsel for the petitioner and learned counsel appearing for the respondents.

3. It has been contended by the petitioners that the petitioners' company is registered under the Companies Act and the 2<sup>nd</sup> respondent has raised a dispute before the Conciliation Officer i.e. the 1<sup>st</sup> respondent for unpaid wages and retrenchment compensation, totalling an amount of Rs.1,35,51,078.19 ps., payable to 58 workers under Section 33-C(1) of the Industrial Disputes Act. The Conciliation Officer vide proceedings dated 16.06.2011 has called upon the petitioners to answer the questions raised by the 2<sup>nd</sup> respondent and directed the petitioners to be present on 28.06.2011 at 3.00 p.m. The main grievance of the petitioners is that the Conciliation Officer has already come to a conclusion to the effect that the petitioners are liable to pay the above said amount and straightaway issued the notice calling upon the petitioners to pay the said amounts. The learned counsel for the petitioners has contended that the Conciliation Officer cannot decide the issue on his own, but if there is any amicable settlement between the parties, he has to record the same or if the matter is

not settled, he must send the failure report to the appropriate Government so as to refer the dispute to the Labour Court under Section 10(1) of the Industrial Disputes act. In the instant case, the Conciliation Officer has adjudicated the issue though he is not vested with such a power and held that the petitioners are liable to pay the amounts to the 2<sup>nd</sup> respondent-Union.

4. The learned counsel appearing for the 2<sup>nd</sup> respondent has contended that the Conciliation Officer merely issued a notice asking the petitioners to appear before him to put forth their case, but he has not adjudicated the issue.

5. This Court having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the Conciliation Officer i.e. the 1<sup>st</sup> respondent herein to record any settlement, if it is arrived between the parties, and if the parties are not inclined to settle the dispute, he should not force any party to come for a settlement and in failure of settlement, he should submit the failure report to the appropriate Government so that the appropriate Government can refer the dispute to the Labour Court or take a decision on its own. Hence, the impugned notice dated 16.06.2011 is set aside and the 1<sup>st</sup> respondent is directed to issue fresh notice to the parties so as to arrive for a settlement amicably, in accordance with law. The Conciliation Officer should undertake the exercise of settling the disputes between the petitioners and the 2<sup>nd</sup> respondent within a reasonable period of time i.e. within four months from the date of receipt of a copy of this order. If there is any settlement, the

Conciliation Officer should record such settlement and close the dispute between the parties.

6. With the above observations, the Writ Petition is disposed of.  
No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

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ABHINAND KUMAR SHAVILI, J

10<sup>th</sup> SEPTEMBER, 2018  
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