

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

WRIT APPEAL NO.889 of 2018

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P. No.32369 of 2017 dated 17.04.2017 wherein the appellant-writ petitioner sought the following prayer:

"... to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent Nos.2 to 7 in not allowing the petitioner Societies 1 and 2 to engage the workers as Auto Drivers, Tractor Drivers, Day Watchmen, Night Watchmen, Security Guards and Security Supervisors, skilled and unskilled workers in the 2nd respondent Corporation in pursuance of the work orders and agreements entered in Tenders vide E.T.No.07/2017-18 for item Nos.2 and 5 with 1st petitioner Society and E.T.No.09/2017-18 for item Nos.5, 7 and 14 with 2nd petitioner Society as illegal, arbitrary and violation of Articles 14, 21 of the Constitution of India, and violation of provisions of Contract Labour Act, also violation of terms and conditions of the Tenders consequently direct the respondents 2 to 7 to allow the 1st and 2nd petitioner Societies to employ their workers in the 2nd respondent Corporation in accordance with terms and conditions of tender, work orders and agreements, and be pleased to pass such other order or orders may deem fit and proper in the circumstances of the case."

In the order under appeal the Learned Single Judge, after extracting the aforesaid prayer sought for in the Writ Petition, observed that, as per the letter of acceptance dated 09.08.2017, the work had to be completed on or before 31.01.2018 from the date of agreement; and, in view of passage of time, the relief sought for in the Writ Petition had become infructuous. The Writ Petition was, accordingly, dismissed.

Smt. T.V. Sridevi, Learned Counsel for the appellant, would submit, not without justification, that, while the letter of acceptance (work order) issued in favour of the 1st appellant no doubt expired on 31.01.2018, the work order issued to the 2nd appellant was for a period of eleven months, and did not expire by then. It is true that the work order, issued to the 2nd appellant,

was for a period of eleven months which did not expire by 17.04.2018 when the Writ Petition was dismissed as infructuous. The fact, however, remains that the eleven month period expired thereafter on 30.06.2018, three days ago. While the Writ Petition may not have become infructuous, in so far as the 2nd appellant is concerned, when the Learned Single Judge passed the order under appeal, it has become infructuous by the time the Writ Appeal was listed before us for admission.

Smt. T.V. Sridevi, Learned Counsel for the appellants, would request that the appellants be continued till fresh tenders are invited. We cannot grant such a relief as no such relief was sought for in the Writ Petition. Suffice it to observe that the order, now passed by us, shall not disable the appellant-writ petitioner from making a representation to the Municipal Corporation, and for the Municipal Corporation to examine the said request in accordance with law.

The Writ Appeal is dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

03.07.2018

MRKR