

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 2013 of 2013
and
M.P. No. 1 of 2013

Tamilnadu Co-op. Niyavilai Kadai
Thozhilalar Munnetra Sangam,
Rep. by its Treasurer, M. Chandran,
No. 25, Thiyagarayar Street,
North Usman Road, Thiyagarayar Nagar,
Chennai - 600 017. Appellant/Third Party

-vs-

1. The Secretary to Government,
Co-op., Food and Consumer Protection Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Civil Supplies and Consumer Protection Department,
Chepauk,
Chennai - 600 005.
3. The Registrar of Co-op. Societies,
NVN Maaligai,
Kilpauk,
Chennai - 600 010. ... Respondents/Respondents
4. Tamilnadu Maanila Anna Kutturavu
Nayaveelai Kadai Uzhiyargal Sangam,
Rep. by its Secretary, M. Jayakrishnan,
No. 447, MIG Old ASTC Hudco,
Hosur, Krishnagiri District. ... Respondent/Petitioner

PRAYER:- Writ Appeal filed under Clause 15 of Letter Patent,
praying to set aside the order passed in W.P. No. 23343 of 2008
dated 18.04.2012 by this Court and to allow the Writ Appeal.

Prayer in W.P. No. 23343 of 2008:

This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records relating to impugned circular in E1/33683/2007 dated 19.08.2008 issued by the 2nd respondent herein and quash the same and consequently direct the 3rd respondent and his subordinates to follow the earlier circular in Rc 85179/2003/PDSG2 dated 19.02.2004.

For Appellant : Mr. T. Sundaravadanam
for Mr. C.K. Chandrasekhar

For Respondent : Mr. L.P. Shanmugasundaram
Special Government Pleader
(Co-operative)

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The intra-Court Appeal arises out of the order dated 18.04.2012 passed by the Learned Judge in W.P. No. 23343 of 2008 filed by the Fourth Respondent, dismissing that Writ Petition. The Appellant who was not a party to that Writ Petition, has preferred this appeal after seeking prior leave of this Court.

2. We have heard Mr. T. Sundaravadanam, Learned Counsel appearing for the Appellant, Mr. L.P. Shanmugasundaram, Learned Special Government Pleader appearing on behalf of the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The Fourth Respondent, which claims to be a Trade Union had challenged the circular No. E1/33683/2007 dated 19.08.2008 issued by the Second Respondent, viz., the Commissioner, Civil Supplies and Consumer Protection Department, by which prices had been fixed for the essential commodities meant for Public Distribution System in Fair Price Shops run by the Co-operative Societies in respect of shortfall in quantities that is found at the time of inspection and had sought for a consequential direction to follow the earlier circular No. E1/33683/2007 dated 19.02.2004 issued by the Third Respondent, viz., the Registrar of Co-operative Societies, under Section 181 of the Co-operative Societies Act, 1983, in W.P. No. 23343 of 2008.

4. Apart from W.P. No. 23343 of 2008 filed by the Fourth Respondent, Writ Petitions in W.P. Nos. 22043, 24464 and 24809 of 2008 were also taken up and disposed by the common order dated 18.04.2012. The Learned Judge, who heard the matter, pointed out that an early Writ Petition in W.P. No. 16728 of 2002 seeking similar relief had been disposed along with other Writ Petitions on 26.11.2007 holding that the subject matter of such disputes require to be adjudicated only before the forum created under the Industrial Disputes Act, 1947, and could not be decided in a Writ Petition and granted liberty to the Petitioners in those cases to raise an industrial dispute and get the issues adjudicated. It was noticed that despite that order, no Trade Union had raised any industrial dispute and instead, they filed the Writ Petitions challenging the G.O. Ms. No. 139 dated 21.07.2008 without disclosing the nature of the membership in any of those Trade Unions. The Learned Judge also expressed doubt as to whether a Trade Union could maintain such Writ Petition in the absence of any action being initiated by their respective employers. In these circumstances, the Learned Judge was of the view that the prosecution of those Writ Petitions was an abuse of legal process and dismissed all the Writ Petitions with an observation that it would not prevent the Petitioners from raising an industrial dispute and whatever had been considered in that order was only for the purpose of deciding those Writ Petitions and would not bind the adjudicating forum in-case a dispute is raised by any of the Trade Unions.

5. We do not find any reason to take a different view of the matter and we confirm the order passed by the Learned Judge.

6. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

vjt

To

1. The Secretary to Government,
Co-op., Food and Consumer Protection Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

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2. The Commissioner,
Civil Supplies and Consumer Protection Department,
Chepauk,
Chennai - 600 005.

3. The Registrar of Co-op. Societies,
NVN Maaligai,
Kilpauk,
Chennai - 600 010.

4. The Secretary,
Tamilnadu Maanila Anna Kutturavu
Nayaveelai Kadai Uzhiyargal Sangam,
No. 447, MIG Old ASTC Hudco,
Hosur, Krishnagiri District.

+1cc to Mr.C.K.Chandrasekhar, Advocate SR.No. 12398

+1 CC TO GOVERNMENT PLEADER SR.NO. 13480

W.A. No. 2013 of 2013

A.SK(15/03/2019)



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