

IN THE HIGH COURT OF JUDICATURE AT MADRAS

18.03.2019

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.NO.20576 OF 2011

Tamilnadu Petroleum and Gas Workers Union,
Formerly known as Indian Oil Corporation,
LPG Plant Labour Union,
Rep.by its General Secretary
V.P.Chindhan Ninaivagam, 39-E, Chinneri Vayal,
Salem-9.

... Petitioner

vs.

1. Government of India,
Rep.by its Secretary,
Ministry of Labour,
Labour and Employment Department,
New Delhi
2. Indian Oil Corporation Limited,
Southern Zone,
rep.by its Executive Director,
Indian Oil Bhavan,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.
3. The Plant Manager,
LPG Bottling Plant,
Indian Oil Corporation,
Karuppur, Salem

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the first respondent to consider and pass orders on the petitioner's representation dated 16.5.2011 and to issue forthwith the notification in the official gazette, abolishing and prohibiting the contract labour system in various jobs in the 3rd respondent LPG Bottling Plant as per the recommendation made by the Central Advisory Contract Labour Board under item No.18 in its 77th

Meeting held on 29th and 30th of September, 2010 and as confirmed under item NO.23 of the said Board in its 78th Meeting held on 28.02.2011 and 01.03.2011.

For Petitioner .. Mr.V.Ajoy Khose
For Respondents ... Mr.Anand Gopalan for
M/s.T.S.Gopalan for R2
Mr.J.Madanagpal Rao
ACGSC for R1

ORDER

The writ petition has been filed seeking for a writ of mandamus directing the first respondent to consider and pass orders on the petitioner's representation dated 16.5.2011 and to issue forthwith the notification in the official gazette, abolishing and prohibiting the contract labour system in various jobs in the 3rd respondent LPG Bottling Plant, as per the recommendation made by the Central Advisory Contract Labour Board under item No.18 in its 77th Meeting held on 29th and 30th of September, 2010 and as confirmed under item No.23 of the said Board in its 78th Meeting held on 28.02.2011 and 01.03.2011.

2.Admittedly, during the pendency of the litigation, there was a conciliation between the petitioner Union and the Management before the Regional Labour Commissioner and Conciliation Officer. On conclusion of the conciliation proceedings, a settlement was entered into between the the petitioner Union and the Management, under Section 12(3) of the Industrial Disputes Act, on 23.02.2017. As per the settlement entered into between the workmen and the third respondent Management, the members of the petitioner Union have been settled their dues and they left their employment with the third respondent.

3.According to the learned counsel appearing for the third respondent, the Plant has already been closed down, which fact has also been admitted by the learned counsel for the petitioner Union. However, the objection of the learned counsel appearing for the petitioner is that subsequent to the closing down of the Plant, Indian Oil Corporation Ltd., has recently issued a Notification in January 2019, inviting Technical Bid for Contract of Handling, Haulage, Clearing, Cartage and Miscellaneous Works for Ex-Salem and Tirunelveli Bottling Plants. Therefore, according to the learned counsel for the petitioner Union, the prayer still survives, despite the settlement entered into between the petitioner Union and the Management in 2017.

4.This Court is unable to appreciate the submission made on behalf of the petitioner Union for the simple reason that admittedly the members of the petitioner Union had been settled their dues by the third respondent Management while closing down the Plant. In case, the petitioner Union is still aggrieved by the present Notification issued by the second and third respondents in January 2019, it is always open to them to pursue their remedy afresh in the manner known to law. However, it is not open to the petitioner Union to keep the writ petition alive, which was filed in 2011 and subsequent to the filing of the writ petition, the above developments had taken place, wherein the members of the petitioner Union have been settled their dues and left their employment.

5.According to the learned counsel for the petitioner, the present action by the second and third respondent, in the light of the recommendation made by the Central Advisory Contract Labour Board, is invalid and therefore, this Court can issue direction as prayed for in the writ petition.

6.This Court is unable to countenance such a submission since the third respondent Plant has already been closed down and in case, the fresh Plant is in continuation of the old one, it is always open to the petitioner Union to challenge such action initiated by the respondents 2 and 3. But the issue as raised in the present writ petition cannot remain open for adjudication, in view of the subsequent developments as stated above.

For the above said reasons, the writ petition stands disposed of and it is always open to the petitioner Union to work out their remedies, in case they are aggrieved by the proposed action initiated by the Management, in the manner known to law. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

msk

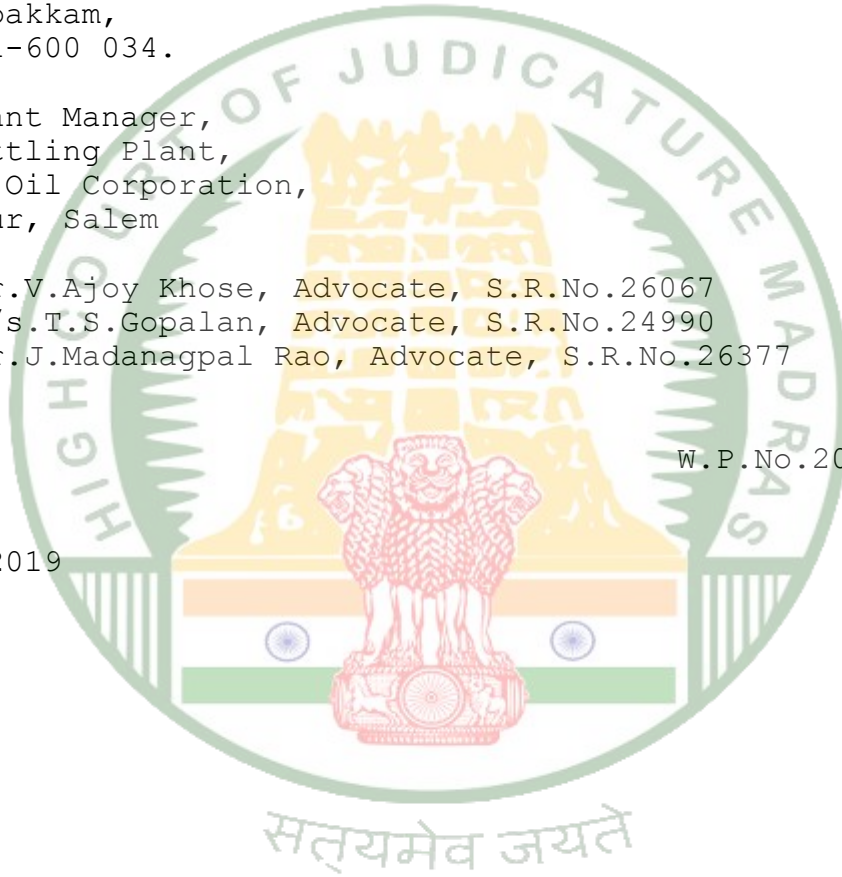
To

1. The Secretary,
Ministry of Labour,
Labour and Employment Department,
New Delhi
2. The Executive Director,
Indian Oil Corporation Limited,
Southern Zone,
Indian Oil Bhavan,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.
3. The Plant Manager,
LPG Bottling Plant,
Indian Oil Corporation,
Karuppur, Salem

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.26067
+1cc to M/s.T.S.Gopalan, Advocate, S.R.No.24990
+1cc to Mr.J.Madanagpal Rao, Advocate, S.R.No.26377

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LN(CO)
CS/06/05/2019



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