

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22662 of 2005

and

W.M.P.No.24689 of 2005

The Managing Director,
The Management of C.E.S. Onyx Pvt, Ltd.,
No.6, Rajamannar Street,
T.Nagar, Chennai - 17. ..Petitioner

Vs.

- 1.The Commissioner of Labour,
Teynampet, Chennai - 6.
- 2.The Deputy Inspector of Labour,
Circle-V, Chennai,
No.33/1, Venkatnarayanan Road,
Nandanam, Chennai - 35.
- 3.The Commissioner,
Corporation of Chennai ,
Chennai - 3. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for records of the first respondent in L1/21635/05 leading to the issue of order dated 15.06.2005 and quash the same.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.

For R1 & R2 : Mr.N.Sakthivel,
Additional Government Pleader

For R3 : Ms.Karthikaa Ashok

ORDER

The order dated 15.06.2005, passed by the Commissioner of Labour holding that the Contract Labour Act did not applicable to the Chennai Corporation, as it has been exempted from the Act, the same would be applicable to the writ

petitioner/Company, as they had employed 20 or more contract labourers.

2. The learned counsel appearing on behalf of the writ petitioner stated that the writ petitioner/Company was engaged by the Chennai Corporation to perform the garbage collection work on behalf of the Corporation. The Chennai Corporation is exempted from the provisions of the Contract Labour Act, when the Principal Employer was exempted from the provisions of the Contract Labour Act. The writ petitioner was performing the duties on behalf of the Personal Principal Employer, cannot be brought under the provisions of the Contract Labour Act.

3. The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2, opposed the contention by stating that the writ petitioner is a separate entity and the petitioner has engaged labourers, as per their decision taken and the decision to engage contract labourer by the writ petitioner was no way connected with the Chennai Corporation. It is further contended that employment of the writ petitioner/Management are no way connected with the employment of the Chennai Corporation and therefore, they cannot seek any exemption under the provisions of the Act.

4. However, the fact remains that the writ petitioner was performing certain garbage collection work on behalf of the Chennai Corporation up to the year 2008 and thereafter, their contract was terminated by Chennai Corporation. Now, almost 11 years lapsed and all those Contract labourers were also discharge by the writ petitioner/Company. On account of efflux of time, the impugned order also lost its significance, as the writ petitioner as of now is not performing any duty on behalf of the Chennai Corporation.

5. Under these circumstances, it is made clear that the respondents 1 and 2 need not go for any further prosecution or otherwise under the Act, as the contract itself was ended during the year 2008 itself. With these clarifications, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Labour,
Teynampet, Chennai - 6.

2.The Deputy Inspector of Labour,
Circle-V, Chennai,
No.33/1, Venkatnarayanan Road,
Nandanam, Chennai - 35.

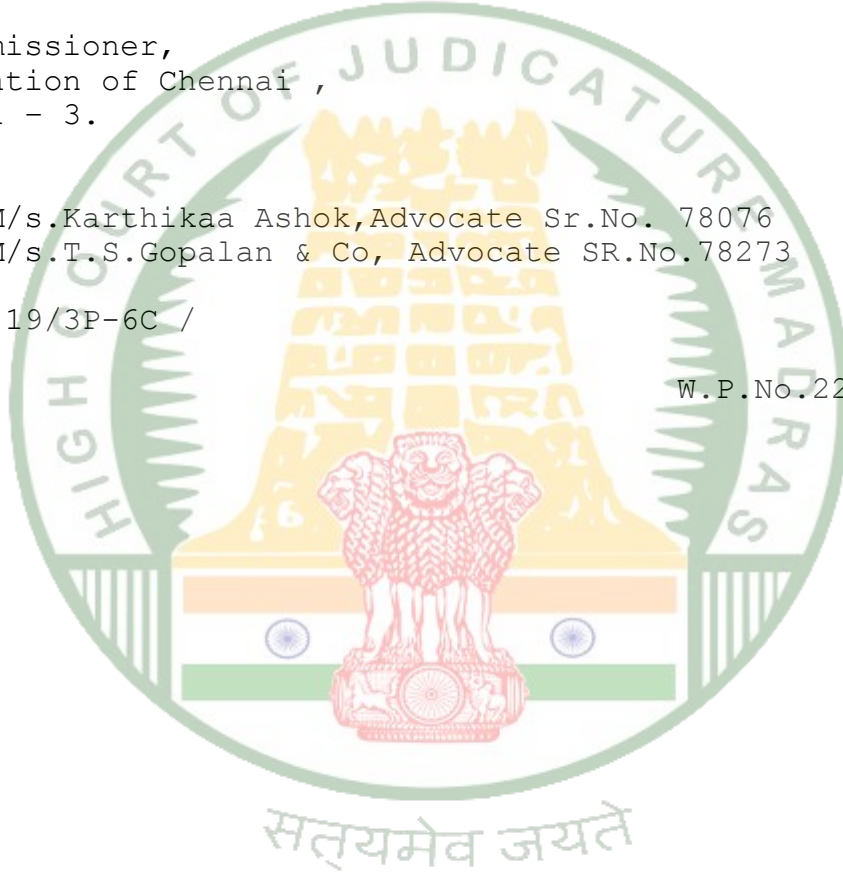
3.The Commissioner,
Corporation of Chennai ,
Chennai - 3.

+1 cc to M/s.Karthikaa Ashok, Advocate Sr.No. 78076

+1 cc to M/s.T.S.Gopalan & Co, Advocate SR.No.78273

AKM/31.10.19/3P-6C /

W.P.No.22662 of 2005



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