

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28172 of 2012

ST-CMS Electric Company,
Thozhilalar Sangam,
118/2, East Street,
Othangal Post,
Vridhachalam Taluk,
Cuddalore District,
Rep.by its Secretary,
M.Kamaraj Giri
S/o.D.Muthia Durai.

...Petitioner

vs.

1. Labour Officer
Labour Department
22A, Pudhupalayam Main Road,
Cuddalore District.

2. The Revenue Divisional Officer,
Virdhachalam Taluk,
Cuddalore District.

3. ST-CMS Electric Company Ltd.,
Uthangal Village,
Virdhachalam Taluk,
Cuddalore District,
Rep.by its Company Secretary.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from indulging in any unfair labour practice of altering the condition of service of the members of the petitioner Association in violation of Section 33 of the Industrial Dispute Act, 1947, pending disposal of conciliation proceedings before the 1st respondent dated 05.07.2012.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.J.Ramesh

Additional Government Pleader
for RR1 & 2.

Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co
for R3.

O R D E R

The relief sought for in the present writ petition is to forbear the respondents from indulging in any unfair labour practice of altering the conditions of service of the members of the petitioner Association in violation of Section 33 of the Industrial Dispute Act, 1947.

2. The writ petitioner/ST-CMS Electric Company, Thozhilalar Sangam, is a registered association under the provisions of Trade Unions Act, 1926.

3. The learned counsel for the writ petitioner made a submission that the conciliation is pending before the first respondent. During the pendency of the proceedings, the third respondent is attempting to alter the service conditions. Thus, the writ petitioner is constrained to move the present writ petition.

4. In this regard, it is relevant to state that Section 33A is a special provision for adjudication as to whether the conditions are decided genuine, during the pendency of the proceedings. Therefore, if at all there is any violation under Section 33A of the Industrial Disputes Act, the aggrieved persons are entitled to file a complaint under Section 33A of the Industrial Disputes Act. Contrarily, a writ petition against the private employer cannot be entertained in this regard directly.

5. The relief sought for in the present writ petition is specifically against the third respondent/Company, which is not a "State" within the meaning of Article 12 of the Constitution of India. This apart, the remedy is provided under the I.D.Act itself and with reference to any such violation, the writ petitioner is at liberty to approach the competent authority for redressing their grievances. Thus, the relief sought for in the present writ petition cannot be maintained and accordingly, the writ petition stands dismissed as not-maintainable. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

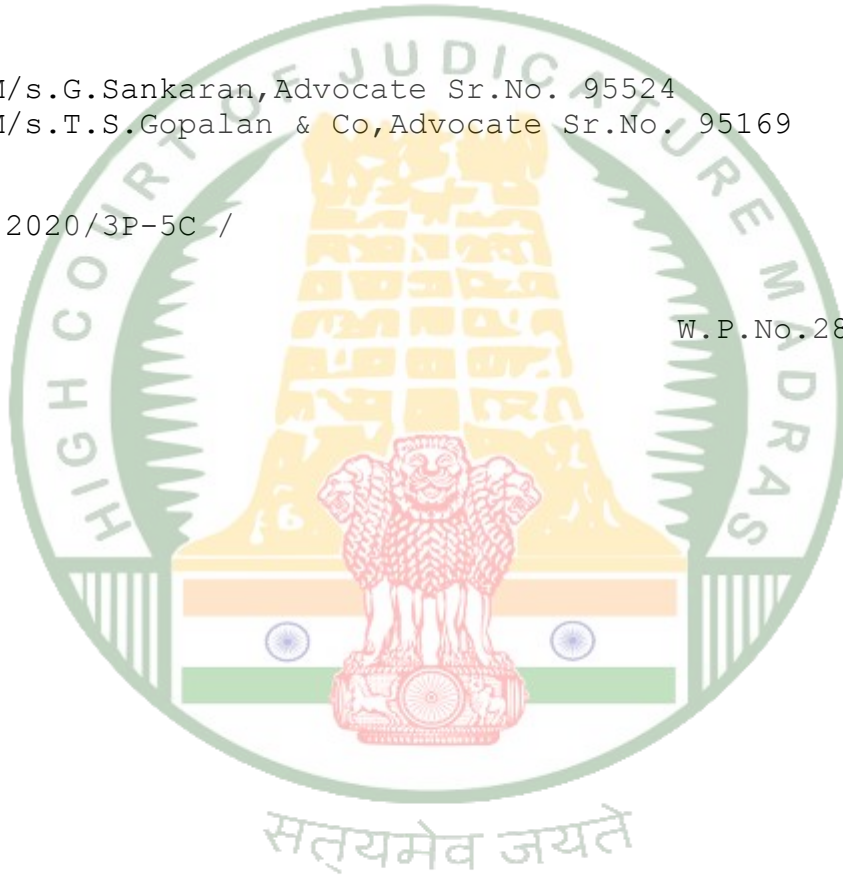
To

1. The Labour Officer
Labour Department
22A, Pudhupalayam Main Road,
Cuddalore District.
2. The Revenue Divisional Officer,
Virdhachalam Taluk,
Cuddalore District.

+1 cc to M/s.G.Sankaran, Advocate Sr.No. 95524
+1 cc to M/s.T.S.Gopalan & Co, Advocate Sr.No. 95169

AKM/09.01.2020/3P-5C /

W.P.No.28172 of 2012



WEB COPY