

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

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

W.P.No.29784 of 2013

and

M.P.No.1 of 2013

Thamizhaga Vinayagar Kattumana &
Amaippusara Tholilalar Nala Sangam,
(Registration No.188/187/VPM),
by State President: A. GOPAL,
No.3-A Gandhi Road,
Kallakurichi: Villupuram District. ..Petitioner

Vs.

1. Tamil Nadu Construction Workers'
Welfare Board rep. By its Chairman,
No.8, Valluvar Kottam Main Road,
Nungambakkam : Chennai - 600 034.
2. The Labour Office,
by District Labour Officer(LOSSS),
Social Security Scheme,
Villupuram. ...Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the Impugned Proceedings in
Na.Ka.No.A/313/2013 dated 16.9.2013 issued by the 2nd Respondent
herein and quash the same.

For Petitioner : Mr.S.Peeriyaswami

For Respondent : Mr.J.Ramesh

Additional Government Pleader

[For R1 & R2]

O R D E R

The order dated 16.09.2013 passed by the second respondent
is under challenge in the present writ petition.

2.The second respondent restrained the writ
petitioner/Thamizhaga Vinayagar Kattumana & Amaippusara
Tholilalar Nala Sangal from recommending the applications for

grant of natural death benefits to the construction workers as the recommendations submitted by the writ petitioner were found to be bogus by the competent authorities.

3. With reference to a similar issue, a writ petition was filed by another sangam, viz., Tamilaga Kattida Thozhilalargal Sangam in W.P.No11247 of 2015, wherein, this Court passed an order on 25.10.2019 and the relevant portion of the order are extracted hereunder.

"3. The allegations against the writ petitioner is that they have recommended applications in respect of the members of the petitioner's Sangam and those recommendations as well as the death certificate enclosed along with the application were found as bogus and accordingly the genuinity of the death certificate was verified by the respondent authorities and consequently, the impugned order was passed under Section 6A of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982.

4. The counter affidavit filed by the second respondent reveals that the petitioner Union counter signed the Natural Death claim application pertaining to the death of Thiru.Subramani Asari S/o Ponnusamy Asari residing at 61, Keel Street, Odhiyathu, Gangavalli (North), Salem District. The deceased was a member of the Tamil Nadu Construction Workers Welfare Board. The said Subramani Asari died on 06.06.2008 and his nominee Tmt.Parameswari submitted a death certificate with Serial No.15 along with the claim petition. A sum of Rs.17,000/- was sanctioned as natural death benefit. The audit team verified the Death Register maintained by the Revenue Department and it was found that the death certificate with Serial No.15 was issued in favour one Thiru.Muthu, who died on 11.08.2008 and not in favour of Thiru.Subramani Asari as claimed in the application. Thus, it was found that the death certificate in favour of Thiru.Subramani Asari was bogus.

5. This Court is of the considered opinion that the Government Welfare Schemes are to be implemented strictly in accordance with the terms and conditions of the scheme and documents, filed by the persons who all are claiming such welfare benefits, are to be verified. There cannot be any compromise in respect of verification of the genuinity of the certificates produced by the claimants. In the event of identifying that the certificates submitted by the claimants are

bogus then the authorities competent are bound to initiate criminal proceedings by registering a case. Submission of bogus death certificate is an offence and such bogus certificates are filed in order to avail the benefits from and out of the Government Welfare Schemes and such schemes are implemented through the tax payers money and therefore, the authorities must be cautious and initiate action against all such illegalities and offences, if any, committed by the claimants or the persons who have assisted the claimants for the purpose receiving such Government benefits. Though actions are initiated in this case to suspend the recognition of the writ petitioner's sangam, no further actions are initiated regarding the bogus certificate produced for the purpose of claiming the Government benefits. It is pertinent to note that only in the event of initiating such actions all such illegalities can be prevented. Otherwise the claimants will be of the opinion that they can submit such false certificates and avail the Government benefits and thereafter, escape from the clutches of law.

6. In the present case on hand, on verification, the authorities found that the certificate submitted by the beneficiary was a bogus certificate. However, the writ petitioner's sangam states that they are not responsible for any such bogus certificates as they have forwarded the certificates submitted by the Members to the authorities competent. While, forwarding such applications, the writ petitioner's sangam is signing a declaration in Form-D that the particulars furnished by the claimants are true and correct. However, this Court cannot go into these aspects, as the dispute involves an enquiry and adjudication. There is a possibility that the claimants would have submitted a bogus certificate to the Association and the Association office Bearers can not be aware of the genuinity of the certificate. It is equally possible that the office bearers would have assisted the claimants to get such bogus certificate from the authorities. All such circumstances are possible in the current day scenario and these facts and truth behind the bogus certificates are to be culled out only by way of an enquiry in the event of filing a criminal case.

7. Thus, this Court cannot offer or make any finding in this regard and it is for the authorities competent to conduct an enquiry in respect of the involvements of the office bearers of the Sangam or the illegality committed by the claimants on behalf of whom such applications were forwarded by the sangam to the

competent authorities.

8. However, the fact remains that the death certificate submitted by the claimant was found as a bogus one and therefore, actions are initiated. This apart, the impugned order was issued under Section 6-A of the Act, which empowers the authority to suspend and cancel the registration. An appeal remedy is contemplated and the appeal is also filed by the petitioner. Thus, the appellate authority/first respondent is directed to consider all these aspects including the involvement of Sangam in the matter of recommending the applications or their involvement in obtaining the bogus certificate in collusion with the claimants and thereafter take a decision by affording an opportunity to all the parties concerned. On identification of such bogus certificate in future, they have to initiate criminal action against all the persons concerned by registering a case before the appropriate police authority. This being the factum, the first respondent/appellate authority is directed to take the appeal for adjudication and dispose of the same as expeditiously as possible preferably within a period of twelve(12) weeks from the date of receipt of a copy of this order."

4.The facts and the circumstances in the present case is also similar, wherein the writ petitioner sangam had made recommendations based on the bogus certificates. On enquiry it was found that the certificates granted as well as the recommendations made by the petitioners are bogus and not eligible to avail the benefits under the scheme.

5.This being the facts and circumstances, the relief as such sought for in this writ petition cannot be granted. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

tsg

To

1. Tamil Nadu Construction Workers'
Welfare Board rep. By its Chairman,
No.8, Valluvar Kottam Main Road,
Nungambakkam : Chennai - 600 034.

2. The Labour Office,
by District Labour Officer(LOSSS),
Social Security Scheme,
Villupuram.

+1 CC to Govt. Pleader sr 97579.

W.P.No.29784 of 2013
and
M.P.No.1 of 2013

VBA(CO)
SP(21/01/2020)



WEB COPY