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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29-11-2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.39877 of 2015

And

M.P.No.1 of 2015

Tamil Nadu Civil Supplies Corporation,
Employees Union,
Regd. No.325/CPT,
Represented by its State General Secretary,
G.S.Valluvan,
Old No.42, New No.12, Thambusamy Road,
Kilpauk,
Chennai-600 010.

.. Petitioner

vs.

1.Tamil Nadu Civil Supplies Corporation,
Represented by its Managing Director,
No.42, Thambuswamy Road,
Kilpauk,
Chennai-600 010.

2.Tamil Nadu Civil Supplies Corporation
Paniyalar Sangam, Regn.No.1830/INTUC,
Represented by its General Secretary,
K.Elavari, M/67 years,
S/o.Kasinadha Devar,
No.40, Rameswaram Road,
T.Nagar,
Chennai-600 017.

(R-2 impleaded as per order of Court
dated 29.11.2019 made in WMP
No.11223 of 2019)

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent-Corporation herein not to entertain any other Union or extend any benefit or favour to any other Union in any manner until the secret ballot is held in accordance with the Division Bench Judgement of this Court for the purpose of



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recognition for all employees together.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalaikannu.

For Respondent-1 : Mr.C.Munusamy

For Respondent-2 : Ms.D.Geetha

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondent-Corporation herein not to entertain any other Union or extend any benefit or favour to any other Union in any manner until the secret ballot is held in accordance with the Division Bench Judgment of this Court for the purpose of recognition for all employees together.

2. Admittedly, the notification issued for the election was not proceeded to and no elections were conducted. Pursuant to the interim orders granted in the present writ petition, the entire election process was stalled and the office bearers of the Union, who were elected in the year 2009, are allowed to continue on account of litigious pendency for the past about 10 years. In other words, the elected office bearers of the Union of the year 2009 is continuing for more than 10 years, despite the fact that the term of elected office bearers of the Union is five years as per the guidelines. Therefore, keeping the present writ petition for a further period would affect the democratic process of conducting an election in the manner known to law.

3. This apart, it is not preferable to allow the elected office bearers of the Union of the year 2009 to continue any further. Under these circumstances, the learned Senior Counsel appearing on behalf of the writ petitioner made a submission that the Division Bench of this Court in Writ Appeal No.1459 of 2009 dated 27.10.2010 made an observation that "the Corporation will consider whether the loadmen can be included in the roll of regular employees at the time of next election. This will help to emerge one common Union for all the employees rather than to have a separate representative Union for the loadmen".

4. Citing the above observation of the Hon'ble Division Bench of this Court, the learned Senior Counsel, appearing on behalf of the writ petitioner-Sangam, reiterated



that the said observation is to be considered by the respondent-Corporation at the time of conduct of elections.

5. The learned counsel appearing on behalf of the writ petitioner in WP No.15464 of 2015, in support of the contention, solicited the attention of this Court with reference to the additional affidavit filed by the respondent-Corporation in October 2009, wherein the Managing Director of Tamil Nadu Civil Supplies Corporation Limited averred as under:-

"6. As far as the next elections to the Trade Unions in the Corporation it is submitted that the Corporation will consider whether the said loadmen can be included in the rolls of regular employees covered by the Service Regulations for the purpose of election of the Trade Unions in that regard. This would however be possible only after regularization of the services of the loadmen and their recognition as being part of the employees covered by the Service Regulations."

6. Reading of the above statement reveals that the observation made by the Hon'ble Division Bench in paragraph-4 of the order dated 27.10.2009 is possible only after regularization of services of the loadmen and their recognition as being part of the employees covered by the Service Regulations.

7. The Labour Manager Smt.Svetlana Regu Rajan, Tamil Nadu Civil Supplies Corporation (TNCSC), No.12, Thambusamy Road, Kilpauk, Chennai-600 012, made a submission on behalf of the Civil Supplies Corporation that the services of these loadmen are yet to be regularised in view of the fact that the eligibility and the other Rules are to be followed by grant of regularization of these employees. In the absence of sanctioned posts, it may not be possible for the respondent-Corporation to accommodate these temporary employees as permanent employees. Thus, only in the event of complying with the Recruitment Rules and availability of sanctioned posts, the respondent-Corporation would be in a position to initiate actions by following the procedures contemplated under law.

8. This Court is of an opinion that all these factors cannot be linked with the conduct of election, which is the democratic process and it is not always preferable to stall the elections, which would affect the very principles of democracy. The elected office bearers of the Union should not be allowed to continue beyond the period prescribed and further more, by



virtue of an interim order, the elected office bearers of the Union of the year 2009, cannot be allowed to continue as they have already continued another 5 years term, which is certainly painful and undemocratic.

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9. All such election matters are to be decided as expeditiously as possible. That is the reason why the Courts have repeatedly insisting that in the election matters, interim orders cannot be granted for an unspecified period, stalling the entire elections, which would, undoubtedly, affect the basic principles of democracy and further the members of the Union are also deprived of electing the set of new office bearers of the Union of their choice.

10. This apart, long continuance of the office bearers of the Union for an unspecified period would create lot of inconvenience, dissatisfaction and pave way for commissions or omissions as well as irregularities and illegalities. In all circumstances, the elected office bearers of the Union should not be allowed to continue beyond the period of tenure specified in the Regulations/Guidelines.

11. This being the basic principles to be followed, this Court is of an opinion that the issues raised by the parties are to be resolved in the manner known to law. However, all such issues regarding regularization or incorporating the loadmen as members or otherwise, cannot be linked with the conduct of elections, thereby affecting the very democratic principles and this Court is of an undoubted opinion that such situations would lead to unconstitutionality, which cannot be encouraged by the Constitutional Courts.

12. In the cases on hand, the last election was conducted in the year 2009. The elected office bearers of the Union are continuing for more than 10 years and the tenure of the elected office bearers of the Union, as per the Regulations, is five years. It is an unfortunate situation, where the Court granted interim order and the petition is unable to be disposed of as expeditiously as possible.

13. This Court is of an opinion that on account of the pendency of large number of writ petitions in the High Court, it may not be possible to dispose of all the cases within a reasonable period of time. The parties, who all are getting interim orders, are also taking undue advantage of such interim orders on account of the pendency of litigations. Such situations, more specifically, in election matters, are to be avoided and the Courts must ensure that election matters are



periodically listed and the same are disposed of within a specified time frame and the Registry of the High Court should ensure that, whenever the interim orders are granted in election matters, such matters are listed periodically before the Court concerned, so as to dispose of the cases at least before the expiry of the term prescribed in the Regulations or Statutes or otherwise.

14. The Registry of the High Court is directed to identify all such election matters or the matters, which all are to be disposed of within the time frame and in the event of non-disposal, the same would affect the democratic principles, fundamental rights of citizen or constitutional principles and therefore, all such cases are to be posted before the Court having roster without causing any undue delay.

15. As far as the writ petition on hand is concerned, the parties have raised many issues. All such issues can be placed before the Corporation, who in turn is bound to consider the same with reference to the Guidelines/Regulations or the Statute and take decisions. Thus, the respondent-Corporation should ensure that the elections are conducted promptly and by following the Guidelines or the Regulations as prescribed.

16. The writ petitioner-Union/Sangam is at liberty to place their grievances before the authorities competent, enabling them to consider the same and take decisions on those issues. However, during the process of considering the grievances, the entire elections cannot be stalled and in any event, the elections must be conducted as per the Guidelines and on expiry of the term of the elected office bearers of the Union and such principles must always be ensured by all concerned, both the Union as well as the respondent-Corporation.

17. Under these circumstances, this Court is of an opinion that all the parties are at liberty to place their respective grievances before the authorities competent, who in turn shall consider the same in the light of the Guidelines or the Regulations and take decisions without causing any undue delay.

18. Accordingly, the relief, as such, sought for in the present writ petition cannot be granted in view of the fact that the elected office bearers of the Union of the year 2009, are continuing for about 10 years, which is more beyond the period of tenure of 5 years fixed in the Guidelines. Thus, the respondent-Corporation is directed to take all steps to conduct the elections as expeditiously as possible and complete the



elections preferably within a period of six months from the date of receipt of a copy of this order. All the elected office bearers of the Union, who all are continuing beyond the tenure of 5 years, shall not take any major decision or policy decision, till such time, the elections are conducted and results are declared by the authority competent.

19. With the above directions, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.42, Thambuswamy Road,
Kilpauk,
Chennai-600 010.

2.The Registrar-General,
High Court,
Madras.

+lcc to Mr.C.Munusamy, Advocate SR.99811
+lcc to Mr.K.Sudalaikannu, Advocate SR.100146

WP No.39877 of 2015

(CO)
CB(16/12/2019)