

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM

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

W.P.No.8941 of 2014

United Labour Federation,
Rep. by its Secretary,
No.149, Thambu Chetty Street,
C.J. Complex, 4th Floor,
Chennai - 600 001.

...Petitioner

Vs.

1. The Secretary,
Department of Labour and Employment,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Management of Myunghwa Automotive India Private Limited,
No.112, Singadivakkam Village,
Kanchipuram District - 631 561.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent Government to initiate prosecution against the persons named in the complaint of the petitioner dated 20.02.2014 under Section 25T of the Industrial Disputes Act, 1947, in view of the commission of the unfair labour practices as falling within S.No.5(c), 5(f), 5(1) (a) of the V Schedule to the Industrial Disputes Act, 1947.

For Petitioner : Mr.K.Sudalai Kannu

For Respondent : Mr.J. Ramesh
Additional Government Pleader [R1]

Mr.R.Prabhakaran [R2]

O R D E R

The relief sought for in the present writ petition is for a direction to direct the first respondent Government to initiate prosecution against the persons named in the complaint of the petitioner dated 20.02.2014 under Section 25T of the Industrial Disputes Act, 1947, in view of the Commission of the Unfair

Labour Practices as falling within S.No.5(c), 5(f), 5(1) (a) of Schedule V to the Industrial Disputes Act, 1947.

2. The petitioner states that second respondent Management has a factory at No.112, Singadivakkam Village, Kanchipuram District, wherein, the second respondent Management manufactures automobile engine spare parts namely, oil pumps, water pumps, drum, disc, knuckle, hub etc., and supplying it to the automobile companies throughout India. More than 400 workers are employed in the factory and the Management is treating only 16 workers as permanent workmen, 27 workers as probationers and more than 180 workers are treated as "trainees" and the remaining workers are treated as contract workers. In respect of the unfair labour practice, the petitioner union submitted a complaint on 20.02.2014 before the first respondent, however, no action has been taken. Thus, the writ petitioner has constrained to move the present writ petition.

3. The learned counsel for the petitioner states that the initiation of action with reference to the complaint as well as the issue connected are considered by the Division Bench of this Court in W.A.No.1609 of 2018 dated 03.06.2019, and the relevant paragraphs are extracted herein:

"5. Having heard the learned counsel on both sides, we are of the opinion that the requirement of any finding by the competent Court or authority about the unfair labour practice as a pre-requisite for deciding the representation or application under Section 34 (1) is not called for. If such an application or representation is filed before the concerned authority of the Government, he has to decide the same and decide whether to initiate the prosecution under Section 34(1) of the Act or not. The writ petition was filed before this Court only seeking a mandamus direction to the concerned Secretary to decide the same expeditiously, but in that process, it appears that certain observations have been made by the learned Single Judge, which were not called for.

6. Therefore, in our opinion, the present writ appeal deserves to be allowed and the same is allowed, and setting aside the order passed by the learned single Judge dated 10.04.2018 in W.P.No.14181 of 2017, the first respondent viz., Secretary to Government, Department of Labour and Employment, is directed to decide the said complaint or representation filed by the appellant Union on 08.03.2017 in accordance with Section 34(1) of the Industrial Disputes Act, as

expeditiously as possible, preferably within three months from today.

7. The objections to the same by the Management can be raised before the first respondent / Secretary to Government.

8. The writ appeal is allowed accordingly. No costs."

4. In view of the judgment cited supra, the first respondent is directed to decide the complaint submitted by the writ petitioner on 20.02.2014 as expeditiously as possible, preferably, within a period of three(3) months from the date of receipt of a copy of this order.

Accordingly, this writ petition is disposed of. No costs.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Department of Labour and Employment,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009

+1 CC to Govt. Pleader sr 87789.

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VGII (CO)
SP(25/11/2019)

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