

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.07.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.NO.18902 OF 2019

Royal Enfield Employees Union,
rep.by its General Secretary,
No.5, Dr.Vasudevan Road,
Kilpauk,
Chennai-600 010

.... Petitioner

vs.

1.The Government of Tamil Nadu,
rep.by its Secretary,
Labour & Employment Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Labour,
Labour Welfare Building,
D.M.S.Compound,
Chennai-600 006

3.The Deputy Commissioner of Labour,
Sriperumbudur, Kancheepuram District.

4.The Management,
Royal Enfield,
(A Unit of Eicher Motors Ltd.,)
No.A-19, Sipcot Industrial Growth Centre,
Oragadam, Kancheepuram District-602 105

5.Royal Enfield Collaborative Forum
Royal Enfield (A Unit of Eicher Motors Ltd),
Oragadam, Kancheepuram District 602 105 ... Respondents

*** It is prayed that this Hon'ble Court may be pleased to issue any appropriate Writ, Order or Direction more particularly a Writ in the nature of Writ of Declaration declaring the impugned Settlement dated 04/06/2019 arrived at under section 12 (3) of the Industrial Disputes Act 1947 before the 3rd Respondent between Respondents 4 and 5 is illegal and unjustified and consequently hold that it binds only the members of the 5th**

Respondent and not the members of the Petitioner Union and pass such other order or direction as this Hon'ble Court may deem and proper in the circumstances of the case and thus render Justice.

For Petitioner	..	Mr.K.M.Ramesh
For Respondents	..	Mr.J.Pothiraj, Spl.G.P. For R1 to R3

ORDER

The challenge in the writ petition is in respect of 12 (3) settlement entered into between the 4th and 5th respondents, on 04.06.2019, under the Industrial Disputes Act. Number of grounds have been raised along with lengthy averments in the affidavit filed in support of the writ petition, assailing the settlement.

2.This Court is unable to countenance the maintainability of the writ petition for the reason that the respondents 4 and 5 are private entities and are not amenable to the writ jurisdiction of this Court. In any event, the issue like the present one requires a detailed adjudication by an Industrial Adjudicator under the mechanism created within the Scheme of Industrial Disputes Act. Whether the 12(3) settlement is binding on all workmen or not? or whether 12(3) settlement is fair and proper and connected issues can be a matter for adjudication by letting in evidence, which exercise cannot be undertaken by this Court in its Constitutional jurisdiction under Article 226 of the Constitution of India.

3.When specific mechanism has been created under the provisions of the Industrial Disputes Act, the dispute of this nature has to be adjudicated only by the Labour Court/Tribunal and the correctness of the settlement can be questioned only before such fora and not before this Court.

4.This Court cannot make a roving enquiry as to the correctness of the 12(3) settlement, since that would involve adjudication of factual disputes and other aspects, which squarely fall within the realm of adjudicatory process, which process can be undertaken only by the Labour Court/Tribunal.

5. Therefore, this Court is of the view that the writ petition as it is, is not maintainable against private employer and also in respect of the issue raised in the writ petition and hence the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IV)

Dated: 01/08/2019

*Amended as per order
dated 06/12/2019 in
WMP No. 34825 of 2019
in W.P. No. 18902 of 2019
Sd/-
Assistant Registrar (CO)
Dated: 12/02/2020

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary,
Labour & Employment Department,
Fort St. George,
Chennai-600 009. To be substituted for the
order already despatched
on 26/09/2019
2. The Commissioner of Labour,
Labour Welfare Building,
D.M.S. Compound,
Chennai-600 006
3. The Deputy Commissioner of Labour,
Sriperumbudur,
Kancheepuram District.

+1cc to Mr. K.M. Ramesh, Advocate Sr. 102016
+1cc to the Government Pleader Sr. 102524

W.P. No. 18902 of 2019

PVS (CO)

RRS (22/08/2019)

Srg 21/02/2020