

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25-10-2019

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3638 of 2014

And

M.P.Nos.1 to 4 of 2014

The Management of M/s.Precision Tool Works (closed),
Represented by its Proprietor,
Mr.K.N.Raghavan,
No.4/445, 7th Cross Street,
Kabalaeeswarer Nagar,
South Extension,
Neelangarai,
Chennai-600 115.

...Petitioner

vs.

1. The Assistant Commissioner of Labour Conciliation I,
Sipcot Complex,
Erunkattukottai,
Sriperumbudur-602 117.

2.R.Harikesavan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records and to quash the entire Conciliation Proceedings in No.1004 of 2013 of the first respondent for the claim of the second respondent and Writ of Mandamus to forbear the first respondent from further proceedings with the Conciliation Proceeding in No.1004 of 2013 pending disposal of the writ petition.

For Petitioner : Mr.T.V.Krishnamachari

For Respondent-1 : Mr.D.Suriya Narayanan,
Additional Government Pleader.

For Respondent-2 : Ms.P.Rose Kamalam

O R D E R

The notice issued by the second respondent on 27.11.2013 for a conciliation based on the petition submitted by the workman is under challenge in the present writ petition.

2. The impugned notice is nothing but a communication issued to the writ petitioner, asking the writ petitioner to participate in the conciliation proceedings and to submit the documents. Such a notice cannot be construed as if the rights of the writ petitioner are prejudiced or affected.

3. This apart, such notices would not provide cause of action for the purpose of filing a writ petition. On receipt of a petition from the workman, the Assistant Commissioner of Labour/first respondent is bound to conduct an enquiry in respect of the issues or the disputes by providing an opportunity to the writ petitioner-Management. Instead of availing the opportunity provided by the Assistant Commissioner of Labour/first respondent, the writ petitioner-Management has chosen to file the present writ petition.

4. This Court is of the opinion that no writ can be entertained against a show cause notice in a routine manner. A writ against a show cause notice can be entertained only on exceptional circumstances if the show cause notice is issued by the authority having no jurisdiction or competency, if an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised to be impleaded as a party in writ proceedings in his personal capacity. In the absence of any of these legal grounds, no writ can be issued against a show cause notice under Article 226 of the Constitution of India.

5. The learned counsel appearing on behalf of the writ petitioner made a submission that the first respondent has no jurisdiction to entertain the conciliation proceedings, however, the said contentions are not substantiated with reference to the provisions of the Statute and a mere statement that the first respondent has no jurisdiction cannot be accepted. The first respondent, undoubtedly, is empowered to conciliate the disputes in respect of the petition filed by the workman.

6. Under these circumstance, the writ petitioner-Management is at liberty to participate in the conciliation proceedings and submit their documents,

explanations and other evidences, if any, to establish their case. In the event of submitting the documents and the evidences, the first respondent is bound to receive all the materials and proceed with the conciliation proceedings in the manner known to law.

7. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

Svn
To

The Assistant Commissioner of Labour Conciliation I,
Sipcot Complex,
Erunkattukottai,
Sriperumbudur-602 117.

+1 CC to Govt. Pleader sr 89941
+1 CC to Ms. Rose Kamalam, Advocate sr 89847
+2 Ccs to Mr.T.V.Krishnamachari, Advocate sr 89611

WP No.3638 of 2014

KK(CO)
SP(27/11/2019)



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