

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25111 of 2019
and W.M.P.No.24678 of 2019

The Professional Couriers Chennai Franchisee,
Rep.by Authorised Signatory,
No.32, Thiru Vi.Ka.Road,
Royapettah, Chennai-600 014.

...Petitioner

vs.

1. The Workmen of the Professional Couriers,
Through United Labour Federation,
Rep.by its Secretary,
No.149, C.J.Complex, 4th Floor,
Thambuchetty Street, Chennai-600 001.
2. The Government of Tamil Nadu
Rep.by its Secretary,
Labour and Employment Department,
Fort St.George, Chennai-600 009.
3. The Assistant Commissioner of Labour (Conciliation-I),
D.M.S. Compound Theynampet,
Chennai.
4. The Special Joint Commissioner of Labour,
4th Floor,
Office of the Labour Commissioner,
Teynampet, Chennai-600 006.
5. The Labour Deputy Commissioner(Head Quarters),
Office of the Labour Commissioner,
5th Floor, Teynampet, Chennai-600006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
to forbear the 5th respondent from in any manner proceeding

against the petitioner concern in Pa 4/30996/2018 dated 02.07.2019, based on the Industrial Dispute raised by the 1st respondent dated 07.08.2018.

For Petitioner : Mr.M.Mubarak Ahmed
for M/s.Ahmad Associates

For Respondents : Mr.M.Karthikeyan for R1.
Mr.M.Elumalai,
Government Advocate for RR2 to 5.

ORDER

The relief sought for in the present writ petition is to forbear the 5th respondent from in any manner proceeding against the petitioner concerning Pa.4/30996/2018 dated 02.07.2019, based on the Industrial Dispute raised by the 1st respondent dated 07.08.2018.

2. The writ petitioner is the Professional Couriers, Chennai Franchisee, represented by Authorised Signatory.

3. The sole contention of the writ petitioner is that the petitioner is an irrelevant person in respect of the disputed facts raised before the first respondent. This writ petition has been filed only on the ground that the first respondent has unnecessarily implicated the writ petitioner in the Industrial Dispute. Thus, the writ petitioner is constrained to move the present writ petition to forbear the 5th respondent from in any manner proceeding against the petitioner.

4. The learned counsel appearing on behalf of the first respondent disputed the contentions by stating that the writ petitioner is also a necessary party, as the Professional Couriers are controlled by Chennai Franchisee and therefore, he was rightly implicated in the Industrial Dispute and he has to defend his case before the Competent Authority.

5. This Court is of the considered opinion that such disputed facts regarding the relevancy or otherwise has to be adjudicated with reference to the original documents and by adducing the evidence, if required, before the Competent Authority. Such an exercise can never be done

under Article 226 of the Constitution of India. Adjudication of issues are required to ascertain the facts regarding the necessity for impleading the writ petitioner in the Industrial Dispute.

6. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner had already submitted a detailed explanation before the 5th respondent on 14.05.2019 raising a preliminary objection with regard to the impleadment of the writ petitioner in the Industrial Dispute as well as the maintainability of the dispute. All such issues are to be adjudicated. It is made clear that the maintainability of the Industrial Dispute is to be decided as a preliminary issue by the 5th respondent to avoid further complication in the matter. When the writ petitioner has raised a preliminary issue regarding maintainability, the same is to be adjudicated with reference to the original documents as well as by adducing evidence, if required, and then decision is to be taken. Thereafter, the 5th respondent can proceed with the other issues on merits.

7. This being the principles to be followed, the 5th respondent is directed to look into the detailed explanation submitted by the writ petitioner on 14.05.2019 and adjudicate the matter by affording opportunity to all the parties concerned, thereafter, take a decision and pass orders on merits and in accordance with law.

8. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssb
To

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

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2. The Assistant Commissioner of Labour (Conciliation-I),
D.M.S. Compound Theynampet,
Chennai.

3. The Special Joint Commissioner of Labour,
4th Floor,
Office of the Labour Commissioner,
Teynampet, Chennai-600 006.

4. The Labour Deputy Commissioner(Head Quarters),
Office of the Labour Commissioner,
5th Floor, Teynampet, Chennai-600 006.

+1cc to Mr.K.Sudalai kannu , Advocate SR.No. 79536

+1cc to M/s.Ahmad Associates , Advocate SR.No. 78591

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A.SK(06/11/2019)



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