

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.24038 of 2019
and W.M.P.No.23863 of 2019

Tamilnadu Electricity Board Contract Labour Union,
Reg. No.3615/CNI,
No.4,Mariyanayagam 1st Street,
Perambur, Chennai -11.
Represented by its President,
Muthupandi

.. Petitioner

Vs.

1. The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Veperi,
Periyamedu, Chennai - 600 007.

2. The Inspector of Police,
F3, Police Station,
Nungambakkam, Chennai - 6.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 1st respondent in his proceedings in No.697/T.P.2/2019 dated 06.08.2019 quash the same as illegal and unconstitutional consequently directing the 1st and 2nd respondents to grant permission for conducting the Hunger Strike at Valluvar

Kottam, Nungampakkam, Chennai from 19.08.2019 to 31.08.2019 insofar as the office bearers of the petitioner association is concerned.

For Petitioner : Mr.Nithyaesh Natraj

For Respondents : Mr.C.Raghavan
Government Advocate (Criminal Side)

ORDER

This petition has been filed challenging the order passed by the 1st respondent by his proceeding dated 06.08.2019, denying the permission to the petitioner Union to conduct the hunger strike.

2. The petitioner which is TamilNadu Electricity Board Contract Labour Union consist of 4,000 members. They all are contractual labours working with TANGEDCO. They are working from the year 1995 onwards.

3. The Union was insisting for making the temporary workers permanent, by absorbing them in the Tamilnadu Electricity Board Department. A draft settlement was also arrived at in the year 2015. The services of the members of the Union was continuously utilised since 1995.

4. In the month of March 2019, the TANGEDCO issued a notification,

calling for candidates for the post of Gangman(Trainees). This notification was challenged before this Court and this Court entertained the writ petition and passed an interim order to maintain "Status Quo".

5. In the mean time, the members belonging to the petitioner Union wanted to express their grievance to the Government by conducting a protest in order to impress upon the Government to absorb the members who have been working for a long time, as permanent employees of TANGEDCO. Therefore, a representation was made to the 1st respondent seeking for permission to conduct a **continuous** hunger strike from 19.08.2019 to 31.08.2019.

6. The 1st respondent, on receipt of the representation, was pleased to **reject** the request made by the petitioner Union by an order dated 06.08.2019 on the ground that, no permission can be granted for such a continuous hunger strike and it will unnecessarily cause a law and order problem. It is further stated in the impugned order that the members belonging to the Association can directly approach the Tamilnadu Electricity Board Department and seek to redress their grievance, rather than resorting

to a continuous hunger strike.

7. When the matter came up for “Admission”, this Court expressed its view to the learned counsel for the petitioner to the effect that such a continuous hunger strike for such a prolonged period cannot be permitted in the venue suggested by the petitioner Union since it will cause hardship to the general public and it will not be possible for the police to keep vigil for such a long time. This Court suggested that the petitioner union should confine the protest for minimum days and also consider an alternative venue for conducting the hunger strike.

8. The learned Government Advocate appearing on behalf of the respondent police submitted that the venue that has been chosen by the petitioner Union is a very busy area and the petitioner Union cannot be permitted to conduct such a continuous hunger strike for a long period. The learned counsel submitted that the petitioner Union can choose one day in a week for a period of four weeks and conduct the agitation and the same will be considered by the respondent police.

9. The learned counsel for the petitioner on instructions submitted that the persons who are participating in the agitation will have to come from various places and therefore it may not be possible for these persons to assemble every week. The learned counsel submitted that the permission can be granted for a continuous period and the said period can be restricted by this Court and time can also be fixed by this Court for conducting agitation. The learned counsel further submitted that the agitation will be attended by not less than 500 members.

10. This Court has carefully considered the submissions made on either side and also the materials available on record.

11. This Court is convinced with the purpose/object for which the agitation is being conducted. The members of the petitioner Union are striving for their livelihood and they believe that only a collective bargaining will ultimately bring them relief. It is true that the notification given by TANGEDCO is a subject matter of challenge before this Court and the same is pending. However that does not mean that the petitioner Union cannot independently agitate for their rights by sitting on a hunger strike.

12. This Court had its reservations only to the venue and the period for which the agitation was planned to be conducted. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate, in this regard.

13. This Court deems it fit to grant permission to the petitioner Union to conduct the agitation in the following manner:

- (a) The agitation shall be conducted by the members of the petitioner Union on 24, 25 and 26 of August 2019, between 10 am and 5 pm.
- (b) The venue for the agitation shall be the regular venue near the Chepauk Cricket Stadium.
- (c) The President of the petitioner Union shall file an affidavit before the 1st respondent by giving the following undertaking:

(i) That the petitioner takes responsibility that none of the speakers, while they exercise their right to free speech and expression, will violate or infringe any of those heads (on which State has made laws or has power to make laws) under Article 19(2) of the Constitution (each of them

should be specifically stated) and that he would abide by the Constitutional values, and that he takes responsibility, for peaceful conduct of the meeting.

(ii) That no picture, cartoons, caricatures, posters, and every form of visual depiction, depicting any religious symbols or other images be used in any form as to hurt the religious sentiments of any religious group, nor shall display anything banned under the laws of India.

(d) It is left open to the 1st respondent to impose any other reasonable condition as may be necessary under the circumstance of the case and the petitioner Union shall strictly abide by the same.

(e) The respondent police shall ensure that the undertaking given by the petitioner Union is obeyed in letter and spirit and if there is any violation of the same, it is left open to the respondent police to proceed further in accordance with law. The respondent police shall ensure that no law and order problem is created and the entire agitation goes on smoothly in a peaceful manner.

14. This writ petition is disposed of, accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

20.08.2019

Speaking Order/Non-Speaking Order

Index :Yes/No

Internet:Yes/No
ssr

Note: Issue order copy on 22.08.2019



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N.ANAND VENKATESH, J.

SSR

To

1. The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Veperi,
Periyamedu, Chennai - 600 007.
2. The Inspector of Police,
F3, Police Station,
Nungambakkam, Chennai - 6.
3. The Public Prosecutor,
High Court, Madras.

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N.ANAND VENKATESH,J.

This Writ Petition is brought under the caption for being mentioned today(22.08.2019).

2.The learned Additional Public Prosecutor submitted that due to exigencies, the dates and the venue requires a modification in the order.

3.This Court is convinced with the reasons assigned by the learned Additional Public Prosecutor to request for the modification in the dates and the venue.

4.Accordingly, the dates for the protest is modified to 25, 26 and 27th of August and the venue is modified to No.144, TNEB Head Office backside gate, Link Road, Annasalai, Chennai. All the other conditions imposed in the order shall stand as it is.

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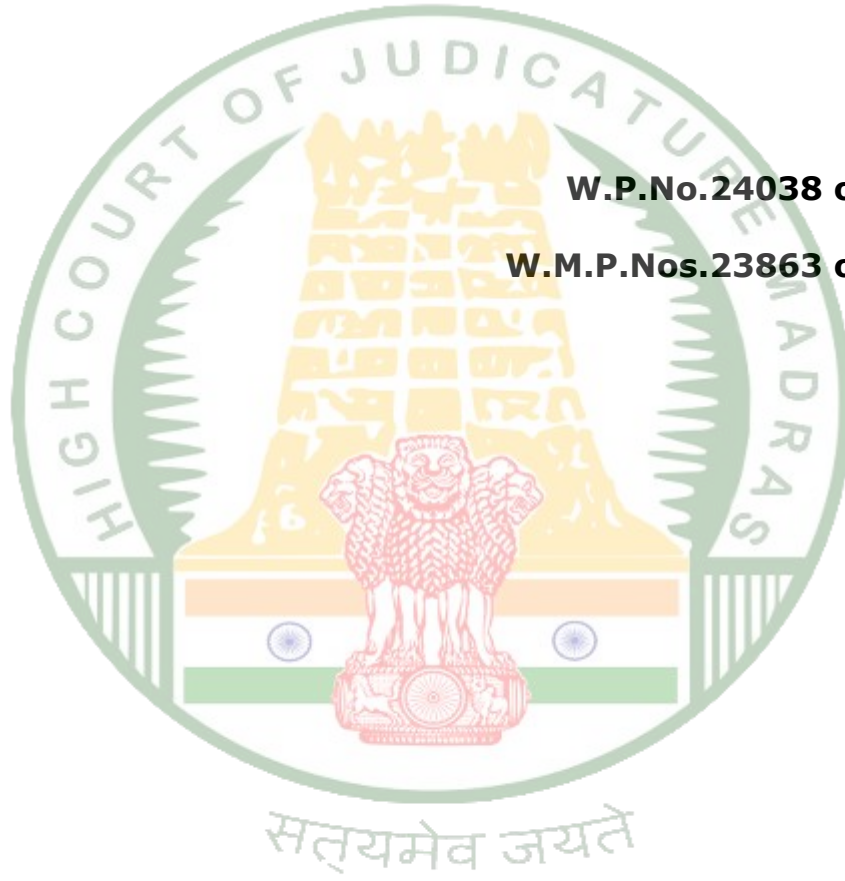
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22.08.2019

N.ANAND VENKATESH, J.,

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