

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 11.6.2019
DELIVERED ON: 19.6.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Appeal Nos.100 & 101 of 2017

Chennai Yetrumathi Valaga Uzhiyargal
Matrum Podhu Thozhilalar Sangam
rep. by its President
No.15, Kannan Street
Kadaperi, Tambaram
Chennai 600 045.

Appellant in
..both W.As./Petitioner

Vs.

Commissioner of Labour
DMS Compound
Teynampet
Chennai 600 006.

The Development Commissioner
Special Economic Zone
Madras Export Processing Zone
Tambaram Sanatorium
Chennai 600 045.

Assistant Commissioner of Police
Tambaram
Chennai 45.

Respondents 1-3
.. in both Was./Respondent

Venture Lighting India Limited
rep. by its Managing Director
Plot No.A30, D5 Phase II, Zone B
Madras Export Processing Zone
Tambaram, Chennai 600 045.

Respondent-4 in
.. WA No.100/17/Respondent

PMI Engineering Exports Pvt. Ltd.
rep. by its Managing Director
B-29, Phase II
Madras Export Processing Zone
Tambaram, Chennai 600 045.

Respondent-4 in
.. WA No.101/17/Respondent

Appeals filed under Clause 15 of the Letters Patent against
the order dated 19.01.2017 made in W.P.Nos.44775 & 44776 of 2016.

W.P.Nos.44775 & 44776/2016:

Writ Petition filed under Article 226 of the Constitution of
India praying for the issuance of a Writ of Mandamus forbearing
the 2nd and 3rd respondents or any person from any way
interfering with the petitioners peaceful demonstration inside
2nd respondent MEPZ premises and outside the factory of 4th
respondent.

For Appellant
in both appeals : Mr.N.G.R.Prasad

For Respondents 1 & 3 : Mr.M.Srinivasan
in both appeals Addl. Govt. Pleader

For Respondent-2 : Ms.G.Shanthi Meenakshi
in both appeals

For Respondent-4 in : Mr.K.V.Shanmuganathan
WA No.100/17

For Respondent-4 in : Mr.S.Ravindran, S.C.
WA No.101/17 : Mr.Basheer Ahmed

J U D G M E N T

Dr.Vineet Kothari,J

These intra court appeals have been filed by the appellant
Chennai Yetrumathi Valaga Uzhiyargal Matrum Podhu Thozhilalar,
(for brevity "appellant Sangam"), aggrieved by the order of the
learned Single Judge dated 19.01.2017 made in W.P.Nos.44775 &
44776 of 2016 which were filed by the appellant Sangam. Both the
writ petitions were filed with a common prayer to direct the
second respondent - The Development Commissioner, Special

Economic Zone, Madras Export Processing Zone, Tambaram Sanatorium, Chennai 600 045 and the third respondent - Assistant Commissioner of Police, Tambaram, Chennai 600 045, not to interfere with the demonstrations to be carried out by them, outside the premises of the fourth respondent - Venture Lighting India Limited and PMI Engineering Exports Pvt. Ltd., respectively.

2. The said demonstration was to be carried out for raising the demands on behalf of various workmen through their Trade Unions, who were employed by the fourth respondent Companies in the Madras Export Processing Zone (in short "MEPZ"), which is like a Special Economic Zone, and also against the dismissal of some of the workmen. To ventilate their legal right of protest and demonstration, the said writ petitions came to be filed by the appellant Sangam or Trade Union.

3. Both the writ petitions came to be disposed of by the learned Single Judge by a common order dated 19.01.2017, with the observation that since the Members of the appellant Sangam are working in MEPZ, a Special Economic Zone governed by Special Laws, if they want to agitate their grievance or to carry on any strike, they can do so only after obtaining necessary permission or sanction from the concerned authorities. It was further observed that such activity can be carried out only outside MEPZ without any hindrance to other Units inside the MEPZ and that the authorities were at liberty to take any action against the protestors in accordance with law, if they violate any condition stipulated by authorities concerned or indulge in any illegal act. Aggrieved by that order of the learned Single Judge, the present appeals have been filed before this Court.

4. Mr.N.G.R.Prasad, learned counsel appearing for the appellant Sangam vehemently submitted that the right of demonstration and protest is a legal right given to the Trade Unions and therefore, no such restrictions, as have been imposed by the learned Single Judge in the impugned order, could have been put on the appellant Sangam. He relied upon the judgment of the Hon'ble Supreme Court in the case of B.R.Singh v. Union of India [(1989) 4 SCC 710], paragraph 15 of which is quoted below for ready reference:

"15. Counsel for TFAI also strongly contended that since the strike was illegal the workers are not entitled to any relief. We see no merit in this submission. The right to form associations or unions is a fundamental right under Article 19 (1)(c) of the Constitution. Section 8 of the

Trade Unions Act provides for registration of a trade union if all the requirements of the said enactment are fulfilled. The right to form associations and unions and provide for their registration was recognised obviously for conferring certain rights on trade unions. The necessity to form unions is obviously for voicing the demands and grievances of labour. Trade unionists act as mouthpieces of labour. The strength of a trade union depends on its membership. Therefore, trade unions with sufficient membership strength are able to bargain more effectively with the managements. This bargaining power would be considerably reduced if it is not permitted to demonstrate. Strike in a given situation is only a form of demonstration. There are different modes of demonstrations, e.g., go-slow, sit-in, work-to-rule, absenteeism, etc., and strike is one such mode of demonstration by workers for their rights. The right to demonstrate and, therefore, the right to strike is an important weapon in the armoury of the workers. This right has been recognised by almost all democratic countries. Though not raised to the high pedestal of a fundamental right, it is recognised as a mode of redress for resolving the grievances of workers. But the right to strike is not absolute under our industrial jurisprudence and restrictions have been placed on it. These are to be found in Sections 10(3), 10-A(4-A), 22 and 23 of the Industrial Disputes Act, 1947 ('I.D. Act' for short). Section 10(3) empowers the appropriate Government to prohibit the continuance of a strike if it is in connection with a dispute referred to one of the fora created under the said statute. Section 10-A(4-A) confers similar power on the appropriate Government where the industrial dispute which is the cause of the strike is referred to arbitration and a notification in that behalf is issued under Section 10-A(3-A). These two provisions have no application to the present case since it is nobody's contention that the Union's demands have been referred to any forum under the statute."

5. Per contra, Mr.S.Ravindran, learned senior counsel and Mr.K.V.Shanmuganathan, learned counsel, who appeared for the Management of the fourth respondent submitted that as far as the

industrial disputes regarding the dismissal of some of the workmen were concerned, upon failure of the conciliation talks, the said disputes also stood referred to the Labour Court / Industrial Tribunal for adjudication and the same are pending trial. Mr.M.Ravindran, learned senior counsel also submitted that the present writ appeals, in fact, have become infructuous, because there is no cause or lis surviving now, for which the appellant Sangam seeks to make any demonstration. He further submitted that the restrictions imposed by the learned Single Judge on carrying out such demonstrations outside MEPZ are perfectly reasonable restrictions because that is a Special Economic Zone developed by the State with a huge investment and about 100 industrial units are working in the said Zone and to avoid breach of peace of other industrial units by the present appellant Sangam or its members, which is likely to affect adversely the industrial peace and relations, the Members of the appellant Sangam have to carry out such demonstration only outside the secured area of MEPZ and therefore, the present writ appeals are devoid of any merit.

6. Ms.G.Shanthi Meenakshi, learned counsel appearing for the MEPZ submitted that by virtue of Section 53(2) of SEZ Act 2005, the entire Zone has been declared as a port and therefore, strikes / agitations are not permitted inside its precincts. She also submitted that MEPZ-SEZ is further declared as a Custom Bonded Area and the environment is akin to that of an Airport/Sea Port which are security zones where the ingress and egress are subject to regulations and trespassing is prohibited. The total area of 264 Acres of MEPZ-SEZ land belongs to Government of India and is notified as a Special Economic Zone (SEZ) by the Government of India. The entire zone is a compounded space and declared as a custom bonded area.

7. It is her further submission that the entrepreneurs who set up units inside the Zone are only lessees. The lessees are permitted to set up industrial units only for exports from the Zone. The goods imported/procured free of customs and excise duty are stored in the bonded warehouses of the Special Economic Zone units by lessees to be dealt with in accordance with the extant rules and regulations. Therefore, the lessees and their employees are allowed to carry out only authorised operations within this 264 acres and since the said area is a highly secured and industrially sensitive area developed by the State for encouraging exports, demonstrations cannot be allowed within the area of MEPZ.

8. Having heard the learned counsel for all the parties, we

are satisfied that the present writ appeals have become infructuous and do not require any further or positive directions contrary to what the learned Single Judge has held. The learned Single Judge has upheld the right of the demonstration of the appellant Sangam and its Members in accordance with law of the land, including the judgment relied upon by the learned counsel for the appellant Sangam. But, like all fundamental rights are subject to reasonable restrictions, the present rights of demonstration in the spirit of Article 19 (1) (c) are also subject to reasonable restrictions.

9. We do not find any error in the order of the learned Single Judge that such demonstration, if any, can be carried out only outside the MEPZ and that too, with the permission of the concerned authorities. In the name of demonstration, the workmen or their Unions cannot be allowed to indulge in hooliganism and disturb the industrial peace, which is very much required for the peaceful industrial and production activity in all the industries, not only belonging to the fourth respondent, but other industrial units set up in MEPZ. Such Special Economic Zones are covered by the special statutes and laws and therefore, they deserve to be more protected and to be in a peaceful environment.

10. In view of the above, we do not find any currently surviving or burning issues in the present case, for which the appellant Sangam is seeking enforcement of the right of demonstration by filing an intra court appeal against the order of the learned Single Judge, which adequately protects their rights, subject to reasonable restrictions. Thus, we do not find any ground to remove or modify those restrictions in any manner.

11. As far as individual cases of dismissal of workmen are concerned, there is no dispute that such cases are already pending for trial before the competent Labour Courts. Therefore, we are not inclined to give any Mandamus / direction in abstract or theoretical form as prayed for by the learned counsel for the appellant.

12. The legal rights of the workman to demonstrate and protest are enshrined not only in the Constitution, but in the relevant industrial laws also, but all such rights, as indicated above, are subject to reasonable restrictions which may be imposed from time to time.

13. Moreover, the prayers made in the present writ appeals are of omnibus nature and the appellant Sangam could not point out any specific instance of breach of their legal or fundamental rights. Therefore, we are not inclined to pass any further orders or directions in the present writ appeals. The same are accordingly dismissed, upholding the orders of the learned Single Judge. There shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kpl
To

1. Commissioner of Labour
DMS Compound
Teynampet
Chennai 600 006.

2. The Development Commissioner
Special Economic Zone
Madras Export Processing Zone
Tambaram Sanatorium
Chennai 600 045.

3. Assistant Commissioner of Police
Tambaram
Chennai 45.

+1 CC to Mr.K.Sumathi, Advocate sr 49901.
+1 CC to Mr.K.V.Shanmuganathan, Advocate sr 49955.
+1 CC to Mr.S.Bazeer Ahamed, Advocate sr 49867.
+1 CC to Mr. Row and Reddy, Advocate sr 51271 (18/07/2019)

सत्यमेव जयते

WA Nos.100 & 101 of 2017.

RSK (CO)
SP (25/06/2019)

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