

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30210 of 2019

and

W.M.P.Nos.30180 & 30181 of 2019

Indian National Government Transport

Workers Federation (INTUC)

Rep. by its General Secretary

T.Wilson.

... Petitioner

-Vs-

1.The Deputy Labour Commissioner No.1

Labour Commissioner Office,

Theynampet, Chennai - 600 018.

2.The Managing Director

Metropolitan Transport Corporation

Pallavan Salai,

Chennai - 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records and to quash the impugned order in O.Mu.Aa.3/4049/17 dated 22.08.2017 passed by the 1st respondent and consequently direct the 1st respondent to renew the petitioner's Federation Registration No.3365/CNI dated 14.10.2010.

For petitioner : Mr.C.Kanagaraj

For Respondents: Mr.D.Suriya Narayanan,
Addl. Govt. Pleader for R1.

Mr.M.Chidambaram for R2.

ORDER

The order dated 22.08.2017, passed by the first respondent Deputy Commissioner of Labour informing the writ petitioner Federation that their registration under the Trade Unions Act, 1926, was cancelled in proceeding dated 05.03.2015, is under

challenge in the present writ petition.

2. The fact remains that the writ petitioner Federation was registered under the Trade Unions Act, 1926, and the learned Additional Government Pleader appearing on behalf of the first respondent informed this Court that the writ petitioner Federation has not filed the statutory returns right from the year 2010 onwards. In view of the fact that the writ petitioner federation had not filed their returns in compliance of the provisions of the Trade Unions Act, 1926, first respondent initiated action and cancelled the registration in proceeding No.Aa3/3802/2014, dated 05.03.2015. Even after cancellation of the registration, the writ petitioner Federation has not initiated any steps to file an appeal or to approach the competent authorities for their grievances.

3. Contrarily, when the Government has taken process of negotiation of settlements, a writ petition was filed before this Court, wherein the writ petitioner Federation is also a party. At that point of time, the petitioner filed the present writ petition to quash the intimation given to the writ petitioner Federation stating that their registration was cancelled in proceeding dated 05.03.2015.

4. The learned counsel for the writ petitioner states that no notice was issued before passing the order of cancellation.

5. Contrarily, the learned Additional Government Pleader by producing the original files states that the registered notice was sent to the address of the writ petitioner and the same was returned with the endorsement "Information Delivered/Door locked". Thereafter, the first respondent passed the order in proceeding dated 05.03.2015, cancelling the registration. Thus, the learned Additional Government Pleader could able to establish that the procedure contemplated under the Act had already been followed and an opportunity provided by the first respondent was not availed by the writ petitioner federation. This apart, the statutory returns are not filed by the writ petitioner Federation for the past nine years and they have not vigilance in filing the returns. Under these circumstances, they are not entitled to any relief in the present writ petition.

6. A perusal of Section 11 of the Trade Union Acts, 1926, contemplates an appeal and accordingly, the petitioner has to file an appeal in the prescribed form before the competent Court.

7. Learned counsel for the writ petitioner states that the appeal is to be filed before the High Court on the civil side. When a statutory appeal is provided under the Act, undoubtedly,

the petitioner has exhausted the statutory remedy in the manner prescribed and the extraordinary jurisdiction under Article 226 of the Constitution of India cannot be invoked. When the Trade Unions Act, 1926, itself provides an appeal to be filed in a particular manner, the said appeal alone is to be filed by the aggrieved persons. No writ petition can be entertained without exhausting the remedy provided under the Statute. Exhausting the appeal remedy is a Rule entertaining a writ petition is an exemption. Thus, the exemption can be invoked only on extraordinary circumstances and can never be exercised in a routine manner. Thus, the writ petitioner has to approach the appellate side by an appeal in the prescribed form under Section 11 of the Trade Unions Act, 1926.

8. All the grounds raised in the present writ petition may be raised by the petitioner in the appeal to be filed and the respondents are also bound to defend their case, if any appeal is filed by the petitioner.

9. With these observations, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Vsm

To

1. The Deputy Labour Commissioner No.1
Labour Commissioner Office,
Theynampet, Chennai - 600 018.
2. The Managing Director
Metropolitan Transport Corporation
Pallavan Salai, Chennai - 600 002.

+1cc to Mr.M.Chidambaram, Advocate, S.R.No. 90859
+1cc to the Government Pleader, S.R.No. 91500

W.P.No.30210 of 2019

SV(CO)
GN(26/11/2019)