



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.32395, 32400, 32402, 32405 and 32406 of 2019
and

WMP.Nos.32710, 32711, 32715, 32716, 32718, 32719, 32721, 32722,
32725 and 32726 of 2019

W.P.No. 32395 of 2019

SU Toll Road Pvt Ltd
Represented by its Authorised Signatory
Mr. Dibyadyuti Bera,
Having registered office at
H Block, 1st Floor,
Dhirubhai Ambani Knowledge City,
Navi Mumbai - 400 710

Having Project Office at
Mettupatty Toll Plaza,
Valapady Tk.,
Salem District- 636 109

..Petitioner

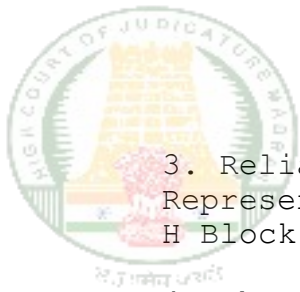
vs

R1. The Regional Labour Commissioner (Central)
The Authority under the Minimum Wages Act 1948,
Shastri Bhawan,
Haddows Road, Nungambakkam
Chennai - 600 006.

R2. Mr. N. Manokaran
Working as an Ambulance Driver at
Mettupatty Toll Plaza,
Residing at Cuddalore Main Road,
Ganesh College,
Mettupatti (Post), Valapadi Taluk,
Salem District - 636 111

..R2 in W.P.No.32395/2019

R2 Mr. S. Parthiban in W.P.No.32400/2019
R2 P. Veeramuthu in W.P.No.32402/2019
R2 K. Premkumar in W.P.No.32405/2019
R2 A. Shahir in W.P.No.32406/2019.



3. Reliance Infrastructure Ltd.,
Represented by its Authorised Signatory
H Block (Dhirubhaiambani Team), Navi Mumbai - 400710

4. The Project Director,
National Highways Authority of India,
No.88, Annexe Building SPIC House, 8th Floor,
Mount Road, Chennai- 600 032.

.. Respondent

Prayer in W.P.No.32395 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records of the second respondent's Claim Petition bearing MW.No.70 of 2019 dated 02.08.2018, MW.No.25 of 2019 dated 2.05.2018, MW.No.27 of 2019 dated 02.05.2018, MW.No.55 of 2019 dated 03.05.2018, MW.No.48 of 2019 dated 02.05.2018 along with the condone delay petition, pending on the file of the first respondent and quash the same.

For Petitioner : Mr. V. Karthick, Senior Counsel
for Inthu Karunakarana in all WPs.

For Respondents : Mr. S.R. Sumathy for R4 in all WPs.

C O M M O N O R D E R

The Claim Petitions bearing MW.Nos.70, 25, 27, 55 and 48 of 2019 respectively dated 02/08/2018, 2/5/2018, 2/5/2018, 3/5/2018 and 2/5/2018 filed along with the condone delay petition pending on the file of the first respondent is sought to be quashed as not maintainable.

W.P.No.32395 of 2019

2. The learned Senior Counsel appearing on behalf of the writ petitioner made a submission that petitioner is a private limited company registered under the Companies Act, 1956. The petitioner company is a concessionaire having entered into an agreement on 19th July 2007, with National Highway Authority of India (NHAI) for BOT (Built, Operate & Transfer) of Salem to Ulundurpet of NH 79 from Km 0+313 to KM 136+670 in the state of Tamil Nadu.

3. The second respondent filed the Claim Petition before the first respondent, the authority under the Minimum Wages Act, 1948 claiming Minimum wages. The Claim Petition filed by the second respondent is taken up for adjudication.

4. The present Writ Petition is filed challenging the very application on the ground that the application itself is not maintainable in view of the fact that the appropriate Government



is the State Government as far as the writ petitioner Company is concerned and therefore the first respondent the Regional Labour Commissioner (Central) has no jurisdiction to entertain such application. This apart it is contended that the provisions of the Minimum Wages Act is not applicable as far as the second respondent employee is concerned.

5. The learned Senior Counsel further made a submission that the petition is to be rejected on the ground of delay and laches also. Raising all these grounds, the very application is assailed as not maintainable.

6. This Court is of the considered opinion that the first respondent is the competent authority under the Minimum Wages Act. Whether the petition would be maintainable before the State Authorities or Central Authorities is also a legal question which is to be decided by the authority before whom such applications are filed. The first respondent is also exercising the powers under the Act as the quasi judicial authority. Therefore, factual as well as legal grounds can be raised before the first respondent for effective adjudication and for taking a decision. Contrarily, by raising certain grounds, Writ Petition cannot be filed to quash the very application itself. Such an approach is only premature but would undoubtedly affect the procedure to be followed under the statute and further amount to interference with the powers of the quasi judicial authorities under the Act itself. All such legal grounds as well as the factual aspects are to be decided by the competent authorities with reference to the documents as well as based on the evidence and also with reference to the provisions of the statute. Such a cause cannot be exercised before the High Court under Article 226 of the Constitution of India at the first instance as the power of judicial review under Article 226 is limited and the original adjudication cannot be entertained. All such original adjudications are to be done by the competitive forums. Admittedly the second respondent filed an application before the first respondent under the provisions of the Minimum Wages Act. The maintainability or otherwise are also to be contemplated by the parties concerned and the first respondent is bound to consider all the factual as well as legal grounds and take a decision after affording opportunity to all the parties concerned. This being the procedure contemplated, High Court quashing all the applications filed by an employee at this juncture would not arise at all. However, if such a cause is done by the High Court undoubtedly the same would prejudice the interests of the parties concerned as the parties may not have complete opportunity to defend their case before the original authority.



7. This Court is of the considered opinion that the other side must be given an opportunity in this regard before the original forum to make their objection or otherwise. Even regarding the jurisdiction and delay, the parties must be given complete opportunity to defend their case properly. This being the principles to be followed, entertaining the Writ Petitions with the present prayers is only an exception and cannot be done by the High Court in a routine manner. All the applications filed before the competent authority must be adjudicated on merits and by following the procedure contemplated. High Court would not interfere in between as the same would prejudice the interests of the parties. Thus, interference in such matters are not preferable and the original authority must be allowed to complete the process of adjudication and only after the final decision, the aggrieved persons are at liberty to approach the appellate authority or the Court of law. This Court is of the opinion that very applications filed by the second respondents under the provisions of the Minimum Wages Act cannot be entertained and the writ petitioner is at liberty to raise the factual and legal grounds before the first respondent for adjudication. In view of the fact that the writ petitioner has raised the questions of jurisdiction and delay, the first respondent shall adjudicate the grounds at the earliest possible and decide the matter as expeditiously as possible.

8. With these observations, the Writ Petitions stand dismissed. No cost. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

mrn

To

1. The Regional Labour Commissioner (Central)
The Authority under the Minimum Wages Act 1948,
Shastri Bhawan,
Haddows Road, Nungambakkam
Chennai - 600 006.



2. The Project Director,
National Highways Authority of India,
No.88, Annexe Building SPIC House, 8th Floor,
Mount Road, Chennai- 600 032.

+1 CC to Mr. S.R. Sumathy, Advocate sr 96951.
+5 CCS to Mr. Inthu Karunakarana , Advocate sr 96813.

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RGN(CO)
SP(22/01/2020)