

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.02.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.31139 of 2018

and

W.M.P.36334 of 2018

Karaikal Chlorates Pattali Thozhir Sangam,
rep.by its President,
Melakasakudi, Karaikal,
Union Territory of Puducherry ... Petitioner

Vs

- 1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Puducherry,
Union Territory of Puducherry.
- 2.The Labour Officer (Conciliation),
Office of the Labour Officer Conciliation,
Perunthalaivar Kamarajar Administrative
'B' Block,
Karaikal, Union Territory of Puducherry-609 602
- 3.The Inspector of Factories,
Office of the Inspector of Factories,
Karaikal, Union Territory of Puducherry.
- 4.Vaighai Chemical Industries Ltd., Unit,
Vaighai Industries,
Rep.by its Director,
No.32/1, Melakasakudy Village,
Nedungadu, Karaikkal,
Union Territory of Puducherry. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 1 and 3 not to permit the 4th respondent to engage any contract or casual or daily wage workers in the 4th respondent factory in the direct manufacturing activities in violation of Government of Puducherry order G.O.Ms.No.16, dated 24.08.2011 and

consequently direct the 3rd respondent to conduct inspection in the 4th respondent Factory and take appropriate action in accordance with law for contravention or violation of the Factories law in the 4th respondent factory, if any, within stipulated time.

For Petitioner .. Mr.P.R.Thiruneelakandan

For Respondents ... Mr.V.Usha,A.G.P.for R1 to R3
Mr.A.R.Ramanathan for R4

ORDER

This writ petition is filed seeking to issue a writ of mandamus directing the respondents 1 and 3 not to permit the 4th respondent to engage any contract or casual or daily wage workers in their factory, in the direct manufacturing activities, in violation of Government of Puducherry Order in G.O.Ms.No.16, dated 24.08.2011, and consequently direct the 3rd respondent to conduct inspection in the 4th respondent Factory and take appropriate action in accordance with law for contravention or violation of the Factories law in the 4th respondent factory, if any, within stipulated time.

2.According to the 4th respondent, the petitioner Union has got nothing to do with their establishment and they are registered as a Trade Union in respect of a different establishment/company, situated at Karaikal.

3.The learned counsel appearing for the 4th respondent would submit that it is an admitted case that the petitioner Union has got nothing to do with the 4th respondent. In fact, the learned counsel would draw the attention of this Court to the Certificate of Registration in respect of the petitioner Union, which clearly shows the Union of workers engaged in the industry of Karaikal Chlorates Pattali Thozhir Sangam Melakasakudy, Karaikal, whereas the 4th respondent is completely a different entity. This fact has also been supported in the counter filed on behalf of the official respondent. In paragraph No.12 of the counter affidavit filed on behalf of the first respondent it is stated as follows:

"12... . It is submitted that as per Trade Union Act, the Labour Commissioner who is also Registrar of Trade Union for Government of Puducherry is the competent authority to register trade union as per the provisions of the said Act. Whereas no

application was received from the employees in the 4th respondent M/s.Vaigai Industries to register themselves as Trade Union.”.

4.From the above materials and pleadings as disclosed, it is very clear that the petitioner Union has absolutely nothing to do with the 4th respondent establishment. In such an event, the only conclusion which could be arrived at by this Court is that the petitioner Union has no locus standi to interfere with the affairs of the 4th respondent company. Such interference by the third party Union is ostensibly intended to achieve a collateral purpose.

5.In fact, during the course of argument, the learned counsel for the petitioner himself has admitted that the petitioner Union is not a registered Union in respect of 4th respondent, but however, would say that in an industrial parlance, any one can raise a dispute in respect of any establishment.

6.This Court is unable to appreciate such sweeping argument advanced on behalf of the petitioner. Unless the petitioner is able to establish that they have industrial interest in the 4th respondent industry, it is not open to them to raise a dispute in respect of the establishment, in which the petitioner Union has no connection at all. Therefore, this Court is of the considered view that the petitioner's attempt to file writ petition seeking to issue a writ of mandamus lacks bona fides and it is presumably intended to achieve a different mala fide purpose. In the said circumstances, this Court is of the view that the petitioner Union as it is cannot maintain this writ petition and therefore, the writ petition is dismissed. No costs. Connected miscellaneous petition is dismissed.

सत्यमेव जयते Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

msk
To

1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Puducherry,
Union Territory of Puducherry.

2.The Labour Officer (Conciliation),
Office of the Labour Officer Conciliation,
Perunthalaivar Kamarajar Administrative
'B' Block,
Karaikal, Union Territory of Puducherry-609 602

3.The Inspector of Factories,
Office of the Inspector of Factories,
Karaikal, Union Territory of Puducherry.

+1cc to Mr.A.R.Ramanathan , Advocate SR.No. 12667

W.P.No.31139 of 2018

A.SK(08/03/2019)



WEB COPY