

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) Nos.18074 to 18077 of 2014**and****M.P. (MD) .No.1,1,1 and 1 of 2014**

The Management,
MH 98, Sri Balaji Weavers Co-operative
Production & Sales Society Ltd.,
178-A, Kamarajar Salai,
Madurai 625 009.
Rep by its Managing Director A.Jeyakumar

... Petitioner in all W.Ps

Vs.

1.The Assistant Commissioner of Labour(In-charge)
/The Inspector of Labour,
Office of the Deputy Commissioner of Labour
1/5C, Rathinasamy Nadar Road,
Madurai 625 014.

... Respondent in all W.Ps

2.Tmt.T.N.Jothi	... Respondent in W.P. (MD) .No.18074/2014
3.K.R.Babu	... Respondent in W.P. (MD) .No.18075/2014
4.K.R.Sankar	... Respondent in W.P. (MD) .No.18076/2014
5.K.R.Jeyamani	... Respondent in W.P. (MD) .No.18077/2014

COMMON PRAYER: Writ Petitions under Article 226 of the Constitution of India, forbearing the first respondent from conducting proceeding with the case in P.G.30 to 33 of 2012.

For Petitioner in

all W.Ps

: Mr.T.Ravichandran

For R1 in all W.Ps

: Mr.M.Jeyakumar

Additional Government Pleader

COMMON ORDER

The relief sought for in these writ petitions are to forbear the first respondent/ The Assistant Commissioner of Labour(In-charge) /The Inspector of Labour, from conducting proceeding with the case in P.G.30 to 33 of 2012.

2.The writ petitioner is a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act. The grievances of the writ petitioner is that the employees working in the writ petitioner Co-operative Society have filed a petition before the Assistant Commissioner of Labour (In-charge)/Inspector of Labour, in view of the fact that the regular Assistant Commissioner of



Labour/Inspector of Labour, is not functioning, during the relevant point of time. The writ petitioner is prompted to file the present writ petitions, during the relevant point of time, the In-charge Officer was holding the post of Assistant Commissioner of Labour.

3. The learned Additional Government Pleader appearing on behalf of the respondents made a submission that the In-charge Officials are not empowered to exercise the powers of the Assistant Commissioner of Labour /Inspector of Labour and therefore, a direction to forbear the respondents from proceeding with the enquiry, is to be issued.

4. This Court is of the considered opinion that the issues in relation to exercise of powers by the Officer In-charge of a post has already been decided by the Full Bench of this Court in the case of **A. SAVARIAR V. THE SECRETARY, TAMIL NADU PUBLIC SERVICE COMMISSION, CHENNAI**, reported in **2008(4) CTC 753**. The point was answered by stating that the In-charge Officer of a post has got power to discharge the powers and statutory function of the said post. In this regard, it is relevant to extract the judgment of the Full Bench, more specifically Paragraph Nos.7, 8 and 9 hereunder:

"7. Under such circumstances, unless contrary intention is expressed by the Government either by way of a statutory provision or by way of an executive instruction, a Government servant, who holds the post as in-charge has got power/to discharge the statutory functions and responsibilities of the said post.

8. Besides since already this issue has been covered by the judgment of the Honourable Apex Court reported in *Gopalji Kanna v. Allahabad Bank*, 1996 AIR SCC 1729 as referred above, we are of the opinion, the view of the Division reported in *C. Baskaran v. The District Collector, Trichy*, 1997 Writ L.R. 33 rendered in W.A.No.1054 of 1983 is not a correct law. Consequently, we hold that an officer-in-charge of a post has got power to discharge the powers and statutory functions of the said post.

9. Consequently, as far as the point of reference is concerned, we hold that the Officer, who is holding the post in-charge has got power to discharge the powers and statutory functions of the said post. Registry is directed to place the papers of the Writ Appeal before the appropriate Bench of disposal."

5. In view of the legal principles settled by the Full Bench of this Court, the In-charge Official holding the post of Assistant Commissioner of Labour (In-charge)/Inspector of Labour is directed to discharge the powers and statutory functions of the said post. The issue filed by the employees of the writ petitioner Co-operative Society.



6. Under these circumstances, the first respondent is directed to proceed with the enquiry by affording an opportunity to all the parties and conclude the same and pass orders on merits and in accordance with law as expeditiously as possible.

7. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar (CS)

To

The Assistant Commissioner of Labour (In-charge)
/The Inspector of Labour,
Office of the Deputy Commissioner of Labour
1/5C, Rathinasamy Nadar Road,
Madurai 625 014.

+1 CC to SPL GP (SR-77984[F] dated 26/07/2019)

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and
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25.07.2019

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