



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.22161 of 2015

and M.P. (MD) No.2 of 2015 and W.M.P. (MD) No.1839 of 2019

M.Rajangam

... Petitioner

Vs.

1.The Director General,  
Government of India,  
Ministry of Labour & Employment,  
Jai Salmer House,  
Man Singh Road,  
New Delhi - 110 011.

2.The Welfare Commissioner,  
Government of India,  
Ministry of Labour Employment,  
Labour Welfare Organisation,  
8/24, St. Thomas Road,  
High Grounds,  
Tirunelveli - 627 011.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records from the 2<sup>nd</sup> Respondent pertaining to his proceedings in reference No.14/1/15 and quash the order dated 16.10.2015 and direct the respondents not to shift the office of the Welfare Commissioner to any other place other than Tirunelveli District and to award exemplary costs.

For Petitioner : Mr.R.Krishnan

For Respondent : Mrs.L.Victoria Gowri  
Central Government Senior Standing Counsel

**O R D E R**

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioner is the President of the Nellai Mavatta Beedi Workers Association, Palayamkottai, Tirunelveli District and in the affidavit filed in support of the Writ Petition, he would aver



among other things that he is working for the cause of the beedi and cigar workers working in Tirunelveli District in particular and also the workers working all over Tamil Nadu for the past five decades. He would further state that he wrote a letter to the Hon'ble Supreme Court with reference to the conditions of service of beedi workers and the said letter was treated as a Writ Petition in W.P.(Civil) No.1262 of 1983 and W.P.(Civil) No.13064 of 1983 and the Hon'ble Supreme Court had issued serious of directions to implement the various welfare schemes created for the workers vide order dated 19.11.1991, which is also reported in **1992 (1) SCC 221 [Rajangam v. State of T.N.]**.

2.The petitioner has also drawn the attention of this Court to the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, the Constitutional Validity of the same has been upheld by the Hon'ble Apex Court in the judgment reported in **1974 (4) SCC 43 [Mangalore Ganesh Beedi Works v. Union of India]**, and made a submission that Beedi Workers Welfare Fund Act, 1978 was brought into effect from 25.09.1978 and under Rule 37 of the Beedi Workers Welfare Fund Rules, 1978, the Welfare Commissioner has the power to inspect the welfare centres maintained by owners of establishments or factories or contractors and further under Rule 42 the Welfare Commissioners are empowered to lodge complaints before the appropriate Court for breach of Rules. The grievance now expressed by the petitioner is that now steps are being taken to shift the Welfare Commissioner from Tirunelveli to Chennai and he invited the attention of this Court to paragraph No.13 of the affidavit filed in support of the writ petition, wherein it is averred among other things that out of 23 dispensaries, 14 dispensaries are situated in Tirunelveli, Thoothukudi and Kanyakumari Districts and for the entire northern districts of Tamil Nadu, the beedi workers are few and far and there are 6,69,000 persons entitled to get the benefits of the welfare fund in Tirunelveli, Thoothukudi and Kanyakumari Districts whereas for the rest of the Districts there are only 2 lakhs beneficiaries and the Welfare Commissioner has to supervise very many welfare schemes for the beneficiaries, which are enumerated in paragraph 14 of the affidavit filed in support of the Writ Petition.

3.In sum and substance, it is the grievance of the petitioner that in the event of the office of Welfare Commissioner being shifted from Tirunelveli to Chennai, there may not be any effective grievance redressal mechanism in place and therefore, he came forward to file this Writ Petition and it was entertained on 10.12.2015 and an order of ad-interim injunction was granted on 10.12.2015 and to vacate the interim injunction, the respondents came forward to file W.M.P.(MD) No.1839 of 2019.

4.The learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment of the Hon'ble Supreme



Court of India reported in **1992 (1) SCC 221 [supra]**, specifically inviting the attention of this Court to paragraph 4 and subparagraph (6), he would submit that it was observed in the aforesaid paragraph that Beedi trade is a flourishing one and exploitation of labour is rampant in this trade and therefore, a Government labour establishment should be located in the area with full complement to answer the requirements of the matter and in the light of the same, it is obligatory on the part of the concerned respondent to locate the office of the Welfare Commissioner in Tirunelveli and it cannot be shifted to Chennai and the Beedi Workers cannot be forced to travel too far of place for redressal of their grievances and therefore, prays for quashment of the impugned order and further to retain the Office of the Welfare Commissioner at Tirunelveli.

5.Mrs.L.Victoria Gowri, learned Central Government Senior Standing Counsel appearing for the respondents has invited the attention of this Court to the affidavit filed in support of the vacate stay petition as well as the additional affidavit dated 29.07.2019 and would submit that during April, 2014, a separate region for Tamil Nadu and Pondicherry was created under the head of a full-fledged Welfare Commissioner (Central), bifurcating it from the territorial jurisdiction of the Welfare Commissioner (Central), L.W.O, Hyderabad and after formation of a separate region for Tamil Nadu and Pondicherry during April - 2014, the Office of the Welfare Commissioner (Central) for Tamil Nadu and Pondicherry has given with the sanctioned strength, which has been enumerated in paragraph 4 of the additional affidavit.

6.It is the further submission of the learned Central Government Senior Standing Counsel that the Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff for the purpose of the Act in the Labour Welfare Organization came to be appointed under the provisions of three Enactments viz., The Beedi Workers Welfare Fund Act, 1976, The Lime Stone and Dolomite Mines Labour Welfare Fund Act, 1972 and The Cine Workers Welfare Fund Act, 1981 and in the light of the job chart prescribed by the Government of India, Ministry of Labour and Employment vide Office Memorandum dated 03.02.2014, the Welfare Commissioner (Central) is very much expedient to have regular co-ordination with different level of Heads of Departments of the State Government Authorities to ensure proper and effective implementation of all the intended schemes of the Government of India as mandated under different enactments and schemes in a just, fair and equitable manner, keeping in view of the larger interest of the unorganized workers at large.

7.It is also pointed out by the learned Central Government Senior Standing Counsel appearing for the respondents that the Assistant Welfare Commissioner (Central), Madurai, who was attached



with LWO, Hyderabad region was immediately transferred to Tirunelveli District and in the light of the above cadre review of the Central Labour Service, the office of the Assistant Welfare Commissioner (Central) functioning at Tirunelveli was upgraded as the office of the Deputy Welfare Commissioner (Central) and consequent upon the second cadre review done, a separate Labour Office, Tirunelveli came into being by upgrading it as the office of the Deputy Welfare Commissioner (Central) with effect from April - 2014.

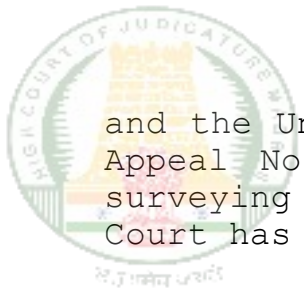
8.The learned Central Government Senior Standing Counsel appearing for the respondents with regard to the specific complaint that in the event of shifting of the Welfare Commissioner from Tirunelveli to Chennai lakhs and lakhs of Beedi Workers will be affected on account of the loss of grievances redressal mechanism, has drawn the attention of this Court to paragraph No.7 of the additional affidavit and would submit that the Assistant Welfare Commissioner (Central), Tirunelveli, is an officer of Central Labour Service holding a feeder cadre post of Welfare Commissioner (Central) is equally competent enough to enforce implementation of various welfare schemes as mandated under the enactments of Beedi Workers Welfare Fund Act, 1976, the Limestone and Dolomite Mines Labour Welfare Fund Act, 1976 and the Cine Workers Welfare Fund Act, 1981 and further invited the attention of this Court to Beedi Workers Welfare Fund (Amendment) Rules, 2000 and would submit that as per Rule 42, the Welfare Commissioners, Assistant Welfare Commissioners and Welfare Administrators shall have power to file complaints before the appropriate Court for breach of these Rules and as such the Beedi workers continues to have a proper mechanism for redressal of their grievances and no dilution on account of shifting of the office of Welfare Commissioner from Tirunelveli to Chennai.

9.It is the further submission of the learned Central Government Senior Standing Counsel that for administrative convenience, there is shifting of the Welfare Commissioner (Central) as the Head of the Department for Tamil Nadu and Pondicherry Region to Chennai for the reason that he has to coordinate with the Tamil Nadu State Government and Pondicherry Government in evolving various modalities for timely implementation of various welfare scheme under the above said three enactments and therefore, prays for dismissal of this Writ Petition and vacating of the interim injunction.

10.This Court considered the rival submissions and perused the materials placed before it.

11.In **2013-3-L.W. 201 [Union of India v. Government of Tamil Nadu & Others]**, the dual pricing policy of High Speed Diesel was put to challenge by the State of Tamil Nadu and it was allowed

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and the Union of India, Ministry of Petroleum filed appeal in Writ Appeal No.572 of 2013 and a Division Bench of this Court after surveying the catena of decisions rendered by the Hon'ble Apex Court has deposed the following:

"61. From the aforesaid decisions of the Hon'ble Supreme Court, the following principles emerge as to when the Courts can interfere in a policy decision:-

I.If the policy fails to satisfy the test of reasonableness, it would be unconstitutional.

II.The change in policy must be made fairly and should not give the impression that it was so done arbitrarily on any ulterior intention.

III.The policy can be faulted on grounds of mala fides, unreasonableness, arbitrariness or unfairness, etc

IV.If the policy is found to be against any statute or the Constitution or runs counter to the philosophy behind these provisions.

V.It is de hors the provisions of the Act or legislations.

VI.If the delegate has acted beyond its power of delegation.

VII.If the policy is against public interest or does not sub-serve public interest, public purpose and public good."

The Division Bench allowed the Writ Appeal on the ground that the policy decision in the absence of the above said infirmities cannot be interfered with.

12.In 2013 Writ L.R. 317 [**R.Veeramani v. The State of Tamil Nadu & others**], shifting of Legislative Assembly complex and using the said complex as Multi Speciality Hospital was challenged. A Division Bench of this Court has dealt with the said issue and after considering the various decisions including that of the Hon'ble Apex Court has observed as follows:

"47. In view of the aforesaid factors, we are of the considered view that the decision of the Government cannot be stated to be arbitrary or hasty one, without any material available on record. It is also to be borne-in-mind that if a Multi Super Speciality Hospital is established, it will serve the public and will promote public interest as rightly contended by the learned Senior Counsel for the respondents. Existence of other hospitals like Rajiv Gandhi Government General Hospital, Stanley Hospital, Kilpauk Medical College Hospital, etc., and other private Hospitals, for the population of Chennai City of about one crore is not sufficient for the purpose of getting specialized treatment by the poor, middle class and down trodden people. Hence there is no substance in the contention that conversion of 'A' Block of New Secretariat Complex at Omanthurar Government Estate into a Multi Super Speciality Hospital is a waste. The fact remains that as on date, there is no Government Hospital available in Chennai city, which can be



equated with AIIMS, New Delhi. The Government should keep it in mind that establishment of Multi Super Speciality Hospital should also serve the poor, middle class and down trodden people, who are not able to get specialized treatment for serious ailments such as heart, kidney, liver, etc., and for transplantation of vital organs, for which patients have to incur heavy expenditure, which the poor, middle class and down trodden people cannot afford to spend. Thus, the proposed decision to convert 'A' block building in the Omanthurar Government Estate into a Multi Super Speciality Hospital is per se in the interest of Public. Moreover, the Government has taken policy decision to have a Multi Super Speciality Hospital at Omanthurar Government Estate, which was also approved by the Tamil Nadu Legislative Assembly, which cannot be interfered by this Court in view of the decisions cited supra.

48. As it is rightly pointed out by the learned Senior Counsel for the respondents, the policy decision of the Government cannot be stated to be haste or waste. The said decision also cannot be stated to be arbitrary, whimsical and on the contrary, the said policy would promote and protect the interest of the public at large, more particularly, weaker sections of the society for getting better and expert treatment for serious ailments. It is made clear that the Government shall take all necessary steps for giving treatment to the poor and deserving people, free of cost."

13.A perusal of the materials including the two affidavits filed along the vacate stay petition would disclose that periodical cadre review was done and a fair decision was taken and it is pertinent to point out at this juncture that the Welfare Commissioner (Central) apart from dealing with the issues relating to the beedi workers have to deal with the Lime Stone and Dolomite Mines Labour Welfare Fund Act, 1972 as well as the Cine Workers Welfare Fund Act, 1981 and that apart he is also incharge of Pondicherry Region, where he has to coordinate with the State Government for the implementation of Labour Welfare Scheme coming under the above said statutory enactments.

14.Rule 42 of the Beedi Welfare Fund (Amendment) Rules, 2000 also enables the Welfare Commissioners, Assistant Welfare Commissioners and Welfare Administrators to file complaints before the appropriate Court for breach of the Rules. It is not as if that all the officials are shifted to Chennai without leaving any officials to take care of the Beedi Workers at Tirunelveli and that the office of the Assistant Welfare Commissioner (Central), Tirunelveli will continue to function and as such he can definitely hear and address the grievances of the workers and he is also competent to cause inspection and file complaint before appropriate



forum, if he comes to know about infraction of the Rules.

15. In the considered opinion of this Court, shifting of the office vide impugned order is not arbitrary or *mala fide* and in the light of the time tested principles as stated in the above said decisions, this Court normally cannot interfere with the policy decision, unless it comes within the relevant parameters.

16. In the result, the Writ Petition is dismissed. However, in the facts and circumstances of the case, there is no order as to the costs. W.M.P. (MD) No.1839 of 2019 stands allowed and consequently, M.P.(MD) No.2 of 2015 is dismissed as a result the interim injunction granted stands vacated.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

sj

To

1. The Director General,  
Government of India,  
Ministry of Labour & Employment,  
Jai Salmer House,  
Man Singh Road,  
New Delhi - 110 011.

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Tirunelveli - 627 011.

+1CC TO MR.L.VICTORIA GOWRI, Advocate Sr. No. 83243

**W.P(MD)No.22161 of 2015**

**22.08.2019**

DB(CO)

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