

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.07.2020
DELIVERED ON : 26.08.2020

C O R A M

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.NOS. 7587,7518,7520 & 7529 OF 2020

W.P.No. 7587 of 2020

Nirman Mazdoor Panchayat Sangam
Rep. By its Secretary,
No.39, Dr.Alagappa Road,
Pursawakkam, Chennai - 84

..Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Secretary,
Department of Labour and Employment,
Fort St.George, Chennai -09.

2. Tamil Nadu Construction Workers Welfare Board,
Rep. By its Secretary,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 34

..Respondents

W.P.No.7518 of 2020

1. All India Construction Workers,
Unorganized Workers Welfare Union,
Regn.No.986/VLR,
Rep. By its Founder President, R.T.Palani,
No.5, Green Circle,
District Collector's Office,
Vellore - 632 004.

WEB COPY

2. Tamil Nadu Makkal Thozhilalar Sangam,
Regn.No.1381/TRI,
Rep. By its General Secretary,
S.Tamil Selvi
Mahalakshmi Complex,
Opp. District Collector's Office,
Namakkal - 637 003.

..Petitioners

vs

1. The Government of Tamil Nadu
Rep. By its Secretary to Government,
Labour & Employment Department,
Fort St.George, Chennai - 09.
2. The Secretary,
Tamil Nadu Construction Workers Welfare Board,
8, Valluvar Kottam High Road,
Chennai - 34.
3. The Secretary,
Tamil Nadu Manual Workers Social
Security Welfare Board,
G/133, TNHB, Chinthamani Super Marker,
Commercial Complex,
Anna Nagar East, Chennai - 102.
4. The Commissioner of Labour,
Labour Welfare Building,
DMS Compound, Chennai - 06.

..Respondents

W.P.No.7520 of 2020

K.Arumuga Nainar,
President
Tamil Nadu Salai Pokkuvarathu Tozhilalargal
Sammelanam (CITU),
No.52, Cooks Road,
Perambur, Chennai - 12.

..Petitioner

vs

1. The Government of India
Ministry of Home Affairs
Rep. By its Secretary,
North Block, Central Secretariat,
New Delhi - 1.

WEB COPY

2. The Government of Tamil Nadu
Rep. By its Principal Secretary,
Revenue and Disaster Management Department,
Fort St.George, Chennai - 09.
3. The Principal Secretary,
Finance Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.
4. The Principal Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.
5. The Secretary,
Co-operation, Food and Consumer
Protection Department,
Government of Tamil Nadu,
Fort St.George, Chennai -09.
6. The Commissioner of Labour,
DMS Campus, Teynampet,
Chennai - 06.
7. The Commissioner of Transport and State
Transport Authority, Ezhilagam, Chepauk, Chennai - 05.
8. The Secretary,
Tamil Nadu Manual Workers Welfare Board,
No.36 N, Usman Road,
Parthasarathypuram, T.Nagar,
Chennai - 17.

..Respondents

W.P.No.7529 of 2020

M.Sivaji,
General Secretary,
Tamil Nadu Auto Thozhilalar Sammelanam (CITU),
No.27, Mosque Street,
Chepauk, Chennai - 05.

..Petitioner

WEB COPY vs

- 1.Government of India,
Ministry of Home Affairs,
Rep. By its Secretary,
North Block, Central Secretariat,
New Delhi - 1.

- 2.The Government of Tamil Nadu
Rep. By its Principal Secretary,
Revenue and Disaster Management Department,
Fort St.George, Chennai - 09.
- 3.The Principal Secretary,
Finance Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.
- 4.The Principal Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.
- 5.The Secretary,
Co-operation, Food and Consumer Protection
Department,
Government of Tamil Nadu,
Fort St.George, Chennai -09.
- 6.The Commissioner of Labour,
DMS Campus, Teynampet,
Chennai - 06.
- 7.The Commissioner of Transport and State
Transport Authority,
Ezhilagam, Chepauk, Chennai - 05.
- 8.The Secretary,
Tamil Nadu Manual Workers Welfare Board,
No.36 N, Usman Road,
Parthasarathypuram, T.Nagar,
Chennai - 17.

..Respondents

Prayer in W.P.No. 7587 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to accord the benefit of G.O Ms.No.77 and 80 of 2020 to the members of the Petition Union or construction workers who have not registered with the 2nd respondent under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme 1994 as well as to those construction workers who have registered but not renewed their registration under the said Scheme, and thereby grant the relief of rations and financial assistance enhancing the same to Rs.5000 on a monthly basis to construction labour as a whole for the duration of the lockdown or in any event grant the relief and the financial benefit accorded in the said orders.

Prayer in W.P.No. 7518 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing respondents 1 to 3 to release payment of Covid19 relief within a time frame as declared by the Chief Minister to all the members whose name is found in the Register of respondents 2 and 3 and whose membership is not cancelled in accordance with Scheme and continue to release the relief till lockdown is lifted and normalcy is restored by the Government and to also enhance the compensation amount from Rs.1000 to Rs.5000 for the bare sustenance of the construction and manual workers.

Prayer in W.P.No. 7520 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to sanction and pay the cash relief of Rs.1000 and other essential items to all the unorganized manual workers belonging to the transport industry that is to all the drivers and other persons, including the drivers who are operating call-taxi, van, lorry, mini-lorry, small goods transport vehicles, TATA Magic, Share-Auto etc in Tamil Nadu, other than Auto drivers as announced by the Hon'ble Chief Minister of Tamil Nadu in the orders dated 14.03.2020 and 13.04.2020 as Corona relief without reference to and without insisting for their membership in the Tamil Nadu Manual Workers Welfare Board and to enhance the cash relief equal to the minimum wages for the lockdown period or at least to Rs.5000/- per month/per lockdown spell/per person/per family for the period from the date of commencement of total lockdown imposed till the lockdown is lifted and till their normal routine life is restored, based on the registered licence numbers/batch numbers available with the Office of the Road Transport Authorities and to take immediate and effective steps to enrol and register all the manual workers in these two Schedule employments within a specified time frame.

Prayer in W.P.No. 7529 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to sanction and pay the cash relief of Rs.1000/- and other essential items to all Auto Drivers and Auto Workshop employees in Tamil Nadu, as announced by the Hon'ble Chief Minister of Tamil Nadu in the orders dated 14.03.2020 and 13.04.2020, as corona relief, without reference to and without insisting for their membership in the Tamil Nadu Manual Workers Welfare Board and to enhance the cash relief equal to the minimum wages for the lockdown period or at least Rs.5000/- per month/per lockdown spell/ per person/per family, for the period from the date of commencement of total lockdown imposed till the lockdown is lifted and till their normal routine life and livelihood is restored, based on the vehicle registration numbers, driving licence and badge by numbers available with the

Office of the Road Transport Authorities and by collecting the details from the Auto Workshops and to take immediate and effective steps to enrol and register all them annual workers in these two Schedule employments, within a specified time as may be fixed by this Court.

For Petitioner(s) : Mr.V.Prakash, Sr.Counsel
for Mr.Gowtham S.Raman
in W.P.No. 7587 of 2020

Mr.K.M.Ramesh
in W.P.No.7518 of 2020

Mr.V.Ajay Khose
in W.P.Nos. 7520/7529 of 2020

For Respondent(s) : Mr.Vijay Narayan,
Advocate General
assisted by
Mr.V.Jayaprakash Narayanan,
Government Pleader
for all the respondents in
W.P.Nos. 7587 & 7518 of 2020
for R2 to R7 in W.P.Nos.7520 &
7529 of 2020

Mr.Karthikeyan, Asst.S.G.,
assisted by
Mr.K.Srinivasamurthy, CGSC
for R1
in W.P.Nos. 7520 & 7529 of 2020

COMMON ORDER

M.M.SUNDRESH., J.

In all these writ petitions, the relief sought for on behalf of the unregistered/non-renewed unorganized workers is cash assistance on a par with registered workers, to tide over the financial difficulties which arose during to the lockdown introduced due to the pandemic, by utilizing the funds available with the Boards meant to be used for various Schemes.

FACTS IN BRIEF:

2. The State of Tamil Nadu introduced an enactment called "The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982", (for short, "the Act"). This

Act has been enacted both to regulate the employment and conditions of work and to provide social security to the workers in sixty-nine categories of employments as mentioned in the Schedule appended. About seventeen Boards were created under the administrative control of the Labour Department for the benefit of the unorganized workers doing different works. Similarly, another seventeen Boards have been created under other departments. Those who got registered are being given various assistance through the Schemes formulated.

2.1. Schemes have been formulated under the Act and so also the establishment of Boards. The Boards are responsible for the administration of the Schemes, subject to the ultimate superintendence by the Government.

2.2. As per Section 8-A, contributions are to be made to the fund for the benefit of manual workers in the employment in construction or maintenance of dams, bridges, etc. Thus, this provision is restricted to the unorganized construction workers.

2.3. As per Section 8-B, contributions are to be made for the benefit of manual workers other than those mentioned under Section 8-A. Such contributions are to be made by the employers.

2.4. However, except the Boards covered under Sections 8-A and 8-B(b), no contribution has been made and collected. This is the factual position. In tune with the powers conferred under Sections 3 and 4 of the Act, two Schemes have been introduced, namely, (i) The Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 (for short, "the 1994 Scheme") and (ii) The Tamil Nadu Manual Workers' Social Security and Welfare Scheme, 2006 (for short, "the 2006 Scheme"). The first scheme is exclusively meant for the benefit of manual workers in the construction field and the other for the remaining.

2.5. The 1994 Scheme deals with the powers and functions of the Board, the Schemes meant to be implemented and the registration of manual workers and renewal. Thus, only when a workman has registered himself under the Scheme, he is entitled for all the benefits mentioned thereunder except which are meant to be used for all irrespective of registration or otherwise.

2.6. Regulation 5 of the 1994 Scheme specifically speaks of Registration of Manual Workers for the purpose of getting the benefits of the Scheme. As per Section 5-A, nomination can be made. Regulation 6 deals with the renewal of registration, which is appositely referred hereunder:-

"6. Renewal of Registration. - Every manual worker whose name has been registered under clause (5) shall renew his/her initial registration or the subsequent renewal of his/her registration before the expiry of the period as specified in the Table below. If the registration is not renewed within the period stipulated in column (2) of the Table below, [the Labour Officer (Social Security Scheme) of the respective District after due verification] shall take action as is specified in column (4) and column (5) corresponding to the period specified in columns (1) and (2) of the Table."

2.7. On a reading of the aforesaid provision, it is clear that a manual worker whose name was already registered shall be duty bound to renew his initial registration or the subsequent renewal. The word 'shall' as mentioned under Regulation 6 of the 1994 Scheme assumes importance. It also speaks about its consequences. If registration is not done within the time specified under the Scheme attached to it, a procedure has been contemplated for cancellation. Accordingly, the registration, if not renewed within a period of one month after the issuance of notice specified in column (4), which once again speaks of the time limit, the same will have to be cancelled.

2.8. The second part of the Regulation 6 speaks about cancellation. The first part speaks about the mandatory duty on the part of the manual worker to renew and, therefore, the process of cancellation being distinct and different, non-renewal which is otherwise mandatory will not create a status of live registered member. Thus, this Regulation merely provides for some flexibility in getting renewal. While there is a procedure for non-renewal, workman who has not renewed even after the mandatory period, cannot equate himself to that of another one who had registered himself and thereafter renewed, as the case may be. Unfortunately, persons whose cause is sought to be espoused have not renewed their registration for years.

2.9. As stated, the Scheme of 2006 is general in nature and, therefore, stands applicable to the workman in the field of transportation. Even this scheme clearly speaks of the benefit being conferred only on the registered members.

2.10. Regulation 14 deals with the renewal of registration, which is reproduced hereunder:

"14. Renewal of Registration. - (1) Every manual worker whose name has been registered under clause 9, shall renew his registration before the expiry of the period of two years specified in that clause.

(2) A registered manual worker who fails to renew his registration shall cease to be a member automatically. No specified orders on the cessation of membership need be issued under this provision.

(3) A registered manual worker whose membership ceased under sub-clause(2) may be readmitted by the [Labour Officer(Social Security Scheme) of the respective District, after due verification].

(4) Notwithstanding his readmission under sub-clause (3) he shall not be eligible to claim any benefits that may become due during the period of non-renewal."

2.11. This provision is somewhat different from the one contained in the 1994 Scheme. May be, it is an improved version of the earlier Scheme, though we would like to discuss its scope by construing it alone, without indulging in any comparison. Sub-clause (2) of the Regulation 14 indicates that if a registered manual worker fails to renew his registration, the consequence is an automatic cessation of membership without any specific orders.

2.12. The Hon'ble Apex Court having found that no such statutory protection is available to the building and other construction workers notwithstanding the directives of the Central Government under the Building and other Construction Workers Act, 1996, issued a series of directives in W.P.(C) No. 318 of 2016 and Cont. P(C) No. 52 of 2013. However, in the State of Tamil Nadu, there exists pre-enactment which we have already noted, in the Act 33 of 1982, which also provides for contribution by the employer. In fact, the payment is also stated to be made out of the fund collected by the Boards under the Schemes. In other words, the grievance of the petitioners is that such cash assistance will have to be extended to the unregistered and un-renewed members also as they are standing on the same footing.

2.13. Due to the unexpected pandemic, the State Government imposed lockdown. As we know, the entire activity had come to a grinding halt. This made the State Government in giving certain assistance to the public in general and the registered members in particular. Accordingly, the registered members of the Boards were given cash assistance for the month of April, 2020

and May, 2020, which was subsequently, extended for one more month only for four districts declared as Red Zones. The cash assistance is of Rs.1,000/- per month. Now, by way of these writ petitions, it is this assistance which was given to the registered members of the Boards is sought to be extended to all others, irrespective of registration or renewal or otherwise. This is the sum and substance of the grievance sought to be espoused before us.

2.14. We would like to place on record the relevant paragraph of the Government Order, being G.O.Ms.No.80, Labour and Employment (11) Department, dated 01.04.2020 granting the assistance of Rs.1,000/- :-

"5.The Government after careful consideration accept the proposal of the Commissioner of Labour and accord permission to distribute the financial assistance of Rs.12,138.82 lakhs to the registered construction workers from the Tamil Nadu Construction Workers Welfare Board Fund and Rs.835 lakhs to the registered Unorganized Drivers from the Tamil Nadu Unorganized Drivers Welfare Board Fund. The above financial assistance will be credited to bank account of the beneficiaries through RECS Mode by Assistant Commissioner of Labour (Social Security Scheme) of concerned districts. The remittance of financial assistance to the beneficiaries shall be monitored and supervised by concerned District Collectors."

2.15. The Government passed an order in G.O.Ms.No.84, Labour and Employment (12) Department, dated 10.04.2020. The relevant paragraph reads as under:-

"5. The Government after careful consideration have decided to accept the proposal of Commissioner of Labour and accordingly grant sanction to procure 57465 kits from Tamil Nadu Civil Supplies Corporation Limited at an appromixate cost of Rs.3,65,61,956/- (Rupees Three Crores sixty five lakhs sixty one thousand nine hundred and fifty six only) for extending the benefits to the inter-state migrant workers employed in construction sectors. Entire expenditure will be met from the Tamil Nadu Construction Workers Welfare Board. The District Collectors will be entrusted with the task of distributing the

kits containing food commodities i.e., 15 kg Rice, 1 kg Dhal, 1 kg Edible Oil through Public Distribution System (PDS) by arranging mobile ration shops."

2.16. Orders have also been passed towards the migrant workers and others giving certain benefits. The State Government also took steps to make sure that the left out unorganized workmen get themselves registered and renewed. Online registration process was also launched on 19.06.2020. A communication was also issued by the Ministry of Labour and Employment Department dated 14.07.2020 impressing upon the State Governments to register all the left-out and other construction workers, as could be seen from the following paragraphs:-

"2. Hon'ble Minister of State (I/c), Ministry of Labour & Employment vide his D.O. letter of even number dated 6th July, 2020 has requested the Chief Ministers/Lt. Governors/Administrators of States/UTs to implement the Mission Mode Project to register all the left-out BOC workers. This time-bound project relies on easing out the processes, doing away with the physical presence of workers for registration & renewals, reposing trust on workers by self-certification and giving due benefits to all eligible construction workers in terms of universal social security and welfare schemes by optimally utilising cess funds.

3. Accordingly, I request you to implement the Mission Mode Project to register all the left-out BOC workers and other associated tasks as detailed in Para 6 of the Advisory Guidelines (Copy enclosed) in a time bound manner which will ensure that all deserving and eligible Construction Workers get the benefits of welfare schemes of the Government."

Now, the petitioners seek the relief despite there being no registration/renewal. We may also note the lockdown has been eased out considerably insofar as the employment is concerned. This is the background of the facts which we are dealing with.

SUBMISSION ON BEHALF OF THE PETITIONERS:

3. Learned counsel appearing for the petitioners representing the unorganized manual workers in the Construction field submitted that assistance is rendered outside the Scheme and, therefore, the registration is immaterial. Contribution has

been made for each worker. An artificial classification made cannot be justified. No notice has been received followed by cancellation order, as submitted by the learned Advocate General, for the cancellation of registration due to non-renewal.

4. Inasmuch as there is no cancellation, those workmen who did not get the renewal done will have to be declared as eligible. The directive issued by the Central Government will have to be considered in letter and spirit, made through the letter dated 14.07.2020. The State Government is conscious about the original members as could be seen from the list furnished to the Central Government by it. The process of registration has not been made easy. One has to see from the point of view of the nature of work. Both the registered and unregistered workers do the same work. The financial difficulty cannot be a ground to deny the benefits to be given. The decision rendered by the Apex Court and that of the High Court of Delhi will have to be made applicable to the facts of the case. The amount paid was under the Disaster Management Act, 2005.

5. Learned counsel appearing for the Drivers in the Transport Sector submits that the judgment relied on by the learned Advocate General that the decision is a policy one and the financial constraint is a factor, is not applicable to the case on hand and Regulation 14 of the 2006 Scheme is not a bar.

SUBMISSION ON BEHALF OF THE RESPONDENTS:

6. Learned Advocate General appearing for the respondents submitted that the classification is having nexus to the object sought to be achieved. Sufficient time has been given for the renewal and the registration. Due procedure has been followed by issuing notices and followed by cancellation. Even otherwise, the non-registration or non-renewal would not give any right. The funds utilized are from the contributions made. There will be a serious financial constraint if the relief is granted. On a rough estimation, it might be around Rs.5,000/- crores. Now, the situation does not exist any longer. There is no bar for the unorganized workers to do their work. Even if they are registered, the same cannot be allowed retrospectively. If further amount is used, the other Schemes cannot be given effect to. It is not as if no benefit has been given. Certain benefits have been given to all those who are in need. There is a serious difficulty with respect to identification and enumeration. The letter of the Central Government has been taken note of. Due care was taken to undertake registration. Even those who could not renew immediately due to the Covid-19 situation have been given the benefit as against those who neither registered nor renewed for a long time. A registration can, at best, be

prospective. In support of his contentions, the learned Advocate General relied on the following judgments (i) Dr.Subramaniasamy vs. Union of India reported in (2014) 8 SCC 682 and (ii) Confederation of Ex-Servicemen Association vs. Union of India reported in (2006) 8 SCC 399.

DISCUSSION:

7. We have already recorded the facts, which are not in dispute. At the cost of repetition, we would like to reiterate the issue before us in a nutshell. The petitioners seek the relief for the unregistered/non-renewed unorganized workmen on par with those registered by utilizing the funds available with the Boards meant to be used for various Schemes.

8. On the legal issue, we find force in the submissions made by the learned Advocate General. The Scheme is meant to be used only for the members registered thereunder. The money collected by the Board under the Scheme is now utilized. Therefore, though it was a cash assistance, money was from the contribution made under the Scheme. While, there may not be sufficient money to give the relief to all those similarly placed persons though unregistered, the same if made available using the available fund would make the Scheme totally unworkable. We find that the classification has got certainly a nexus to the object sought to be achieved. It is not the case of the petitioners that the utilization of the fund is bad. On the contrary, they also want the cash assistance as done to the registered members of the Board.

9. It is not possible for the State Government to undertake a roving enquiry to identify all those who are working as unorganized workmen. Utilizing the fund available for the purpose as stated by the petitioners would substantially prejudice the cause of the registered members, who are also not before us.

10. The guidelines of the Central Government dated 14.07.2020 is merely advisory in nature. This could only be construed to mean that the steps will have to be taken by taking note of endeavours to make sure that the benefit of the Scheme reaches the workmen who are left out by due registration by easing out the procedure. Perhaps, they can get their rights after registration and in future schemes apart from any cash assistance in the event of possible recurrence of pandemic. Until and unless the registration is made or renewal is given, the unorganized and unregistered workmen cannot be treated at

par with the registered ones. We may also note the statement made by the learned Advocate General that all those workmen who could not renew it up to June, 2020 were given the benefit as against those who did not do so from the year before and earlier. There is obviously a difference between the one who could not and did not.

11. Regulation 6 of the 1994 Scheme has already been dealt with by us. This provision speaks of renewal and cannot be interpreted as sought for by the petitioners. Such a construction would defeat the very object of registration itself. A person, who has not renewed for years, cannot be permitted to contend that he should be placed on a par with the one who registered and renewed. The second part of Regulation 6 of the 1994 Scheme is only for the purpose of cancellation. The regulation being a part of the social welfare measure, did not wish to reject the renewal on the ground of a mere delay. Therefore, it only takes care of the procedural aspect. Otherwise, there is no need for renewal at all. Any interpretation, as sought for, would reduce the mandatory renewal by mentioning the word 'shall' as redundant. The petitioners cannot seek as a matter of right that by treating them on a par with the registered members of the Board, they should be given cash assistance out of the contribution made and meant to be used for the Schemes to the benefit and betterment of such members. After all, the Schemes do give certain rights to the registered members and that is the reason why a procedure for nomination is also provided.

12. The scope of Regulation 14 of the 2006 Scheme has also been taken note of by us already. This provision completely shuts off the workman from getting any assistance under the Scheme, if he fails to renew. That is the reason why sub-clause (2) speaks of the effect of cessation. Accordingly, the only option open to the workman is to get himself renewed, in which case, he shall not be eligible to claim any benefit that may become due during the period of non-renewal.

13. There is one more difficulty. We cannot undertake the exercise on the factual adjudication qua the status of workman. The same applies to the respondents as well. Though the learned senior counsel appearing for the petitioners submitted that the list furnished to the Central Government also indicates the members, the question is one of identifying the workman working in the unorganized sector, where one would have worked earlier, but not thereafter. We also dealt with the right of such a workman in the absence of registration/renewal. Therefore, the contention raised in this regard stands rejected.

14. Though the learned senior counsel appearing for both the parties made reliance on number of judgments, we do not wish to go into the same as there is no difficulty on the law laid down. Article 14 of the Constitution of India forbid a classification which is not permissible in law. In other words, a classification made will have to indicate a valid discrimination. Similarly, if a policy decision is taken, one cannot interfere with it unless there is a violation of a constitutional mandate.

15. Therefore, looking from any perspective, we do not find any merit in these writ petitions. While testing the classification, the Court will have to give some leverage to the authority concerned. Thus, in light of the above said discussion, we find that the relief as sought by the petitioners cannot be granted, particularly when the situation has eased out now. Though the cash assistance was given under the Disaster Management Act, 2005, the fund utilized from the Board, meant for usage of the registered members, and therefore, the petitioners cannot seek parity. Certainly, any relief given will adversely impact the registered members, apart from making all the Schemes virtually impossible to be given effect to.

16. However, we find that the unregistered, unorganized workers cannot be left in the lurch. We are dealing with illiterates and semi-literate persons. The State of Tamil Nadu itself stated that efforts were made towards the registration/enumeration. Due to mere ignorance, the unregistered members cannot lose the benefits in future. Once they register, they are entitled to the benefits.

17. Accordingly, while declining the relief as sought for with respect to the cash assistance given only to the registered members of the Boards, we direct all the respondents to undertake an extensive process of enumerating and enlisting of those unorganized workman coming in the purview of thirty-four Boards, both under the Labour Department and others, by interacting with the respective wings of the State Government. The District Collectors concerned are directed to undertake the said exercise and complete the process within a period of eight weeks from the date of receipt of a copy of this order. Though the learned Senior Counsel appearing for the petitioners submitted that the rigour can be loosened, we do not wish to express anything on that except observing that the registration will have to be done by accepting any one of the modes as provided for under the statute.

18. However, we may note that insofar as getting the verification done by the Village Administrative Officer is concerned, in the writ petition filed in W.P.No.10922 of 2020 dated 21.08.2020, the following order was passed:-

"3. Mr.V.Jayaprakash Narayanan, learned Government Pleader appearing for the State submitted that the workman need not worry about this aspect and the official respondents themselves will get the verification done from the respective Village Administrative Officer on the application of the workman concerned and therefore he/she will not be made to get the verification done from the Village Administrative Officer. The said statement made by the learned Government Pleader stands recorded.

4. In view of the above, the writ petition is disposed of by making it clear that as and when an application is made seeking registration by any workman seeking to register himself / herself in any one the schemes in existence, the verification by the VAO will have to be done by the authority concerned and not otherwise. No costs."

19. Thus, in the light of the above said order, when an application for registration is made, the applicant shall not be insisted for the verification to be done by the Village Administrative Officer as the same will have to be done by the appropriate authority.

20. The aforesaid direction is issued by taking into consideration the letter dated 14.07.2020 of the Ministry of Labour and Employment and the stand taken by the Board, which was accepted by the State Government, that steps were indeed taken already towards the registration and renewal with the object of facilitating the application of benefit to the unorganized workmen. Once this is done, at least, in future, unorganized workmen would get adequate benefits under the Scheme. The persons/entities, who engage any workman coming under all the thirty-four Boards both under the Department of Labour and other departments, are expected to make contribution as it is mandatory under the Act. Failure to do so and the absence of action on the part of the respondents has already been causing serious prejudice to the scores of workmen. Therefore, the State Government is directed to make sure that the contribution is being made by those who utilize their services in future. Appropriate direction will have to be issued

by the State Government in this regard within a period of twelve weeks from the date of receipt of a copy of this order after complying the due requirement of law.

21. With the above said observations, the writ petitions stand disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

- 1.The Secretary,
Department of Labour and Employment,
Fort St.George, Chennai -09.
- 2.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 341.
- 3.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
8, Valluvar Kottam High Road, Chennai - 34.
- 4.The Secretary,
Tamil Nadu Manual Workers Social
Security Welfare Board,
G/133, TNHB, Chinthamani Super Marker,
Commercial Complex,
Anna Nagar East, Chennai - 102.
- 5.The Commissioner of Labour,
Labour Welfare Building,
DMS Compound, Chennai - 06.
- 6.The Secretary,
Ministry of Home Affairs
North Block, Central Secretariat,
New Delhi - 1.

7.The Principal Secretary,
Revenue and Disaster Management Department,
Fort St.George, Chennai - 09.

8.The Principal Secretary,
Finance Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.

9.The Principal Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 09.

10.The Secretary,
Co-operation, Food and Consumer Protection
Department,
Government of Tamil Nadu,
Fort St.George, Chennai -09.

11.The Commissioner of Labour,
DMS Campus, Teynampet, Chennai - 06.

12.The Commissioner of Transport and State
Transport Authority,
Ezhilagam, Chempauk, Chennai - 05.

13.The Secretary,
Tamil Nadu Manual Workers Welfare Board,
No.36 N, Usman Road, Parthasarathypuram, T.Nagar,
Chennai - 17.

+lcc to Mr.K.M.Ramesh, Advocate, S.R.No.27721

+lcc to Mr.V.Ajoy Khose, Advocate, S.R.No.27690

सत्यमेव जयते

Pre-Delivery Order in
W.P.Nos. 7587, 7518,
7520 & 7529 of 2020

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KKV/16/09/2020