

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.P.No.16211 of 2020 and W.M.P.No.20251 of 2020

Madras Race Club Employees Union rep.by its
General Secretary, 3/2, Race Park
Five Furlong Road, Guindy, Chennai 600 032. ...Petitioner

-Vs-

- 1 The District Collector
Chennai Collector Fourth Floor
M.Singaravelar Maaligai No. 62 Rajaji Salai
Chennai - 600001
- 2 The Government of TamilNadu
Rep by its Chief Secretary Revenue and
Disaster Management (DM-II) Department
Fort St.George, Chennai - 600009
- 3 The Management of Madras Race Club
Club Rep by its Chief Executive Officer
Guindy Chennai - 600032 ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the 1st and 2nd respondents to ensure by taking appropriate action under National Disaster Management Act 2005 for securing compliance by the 3rd respondent and issued such further or other appropriate orders or directions.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.R.Bubalachandran

For Respondents : Mr.V.Raghavachari for Mr.T.Balaji

ORDER

The prayer sought for in this writ petition is to direct the 1st and 2nd respondents to ensure by taking appropriate action under National Disaster Management Act 2005 for securing compliance by the 3rd respondent and issue such further or other appropriate orders or directions.

2. The facts that are necessary to be noticed for the disposal of this writ petition is that, 14 employees of the third respondent, who are members of the petitioner's Union, as of now are not being engaged by the third respondent. In other words, they have been retrenched or according to the third respondent, they would have been treated as non

employees of the third respondent. That issue involving the controversy between the employees and the Management seems to have been pending before the concerned Industrial Tribunal.

3. In the mean while in view of the said position, as according to the third respondent, those employees are no more employees of the third respondent, they have to vacate the quarters which were available within the campus of the third respondent, which were originally allotted to them when they were working as the employees of the third respondent and in this regard, it seems that, the third respondent has been insisting upon those employees to vacate the quarters immediately.

4. Even during the COVID-19 pandemic situation, such an insistence seems to have come from the third respondent. According to the petitioner Union, they moved the present writ petition with the aforesaid prayer seeking the indulgence of this Court to give protection to those employees from the insistence of the third respondent to vacate the quarters immediately where they are at present residing.

5. During the course of the hearing Mr.V.Prakash, learned Senior Counsel appearing for the Employees Union, on instructions, submitted that, if reasonable time is given for these employees to locate the alternative accommodation, certainly they would vacate the quarters and in this regard in view of the academic year, the children of the employees are studying in various schools, if time is granted upto 31.03.2021, certainly within such period, suitable alternative accommodation would be found out and accordingly they would vacate the quarters on or before 31.03.2021.

6. In response to the said offer from the employees side, Mr.V.Raghavachari learned counsel appearing for the third respondent, on instructions, would submit that, if each employee comes forward to file an individual affidavit that they would vacate the quarters by 31.03.2021, till such time no persuasive action would be taken by the third respondent to vacate these employees from their respective quarters.

7. Accordingly, on behalf of the employees, individual undertaking affidavits have been filed by the learned Senior Counsel for the petitioner Employees Union, except one employee viz., one Anbu. In other words, 13 out of 14 employees have filed undertaking affidavit. In order to appreciate the content made in the undertaking affidavit, the contents of one such affidavit is extracted hereunder.

" I, M.Senthil, Son of Muthu, Indian, aged about 32 years, residing at No.3, Race Park, Five Furlong Road, Guindy, Chennai 600 032, do hereby solemnly affirm and sincerely state as follows:

1. respectfully submit that the above writ petition was filed by the petitioner / Madras Race Club

Employees Union praying for relief in respect of quarters which I am occupying.

2. I respectfully submit that without prejudice to the Industrial Dispute relating to the denial of my employment, I will vacate the quarters on or before 31.03.2021, as per the extension time given by employer through its Counsel before this Hon'ble Court.
3. I respectfully submit that I undertake to vacate the quarters on or before 31.03.2021 and this affidavit may be taken on record and justice render."

Similar contents have been made in each of the undertaking affidavit filed by the respective employees.

8. Since each of the employee has filed an undertaking affidavit that, they would vacate the quarters on or before 31.03.2021 and they also requested that the said content of the affidavit may be taken on record, this Court feels that, on the basis of the said undertaking affidavit and by recording the same, time can be granted to them till 31.03.2021 to vacate the quarters.

9. However Mr.V.Raghavachari, learned counsel appearing on behalf of the third respondent has raised a doubt that, in Para 2 of the undertaking affidavit since the employee has stated that, he would vacate the quarters on or before 31.03.2021 without prejudice to the industrial dispute regarding the denial of his employment, based on the industrial dispute, which is stated to be pending before the concerned industrial tribunal, the employees may raise an issue stating that, the industrial dispute is not decided and it is pending and therefore linking with the said pendency of the said industrial dispute, they may seek further indulgence either from this Court or other forum to extend the period beyond 31.03.2021 and in that guise, they may want to retain the quarters beyond 31.03.2021.

10. However Mr.V.Prakash, learned Senior Counsel appearing on behalf of the Employees Union has made a categorical statement across the Bar that, the apprehension of the learned Senior Counsel for the third respondent is misplaced and the condition stated in Para 2 of the affidavit is only in order to protect the rights of the employees with regard the alleged denial of employment and since that was the subject matter before the industrial tribunal, in order to protect their interest as the Management may take advantage by virtue of the present undertaking affidavit being filed before this Court, thereby the issue as to whether they were employees or not and they were denied employment or not, could not be agitated before the Tribunal on merits, and that situation should not in any way get prejudiced and therefore, only on that count, the said averment stating that, without prejudice to the industrial dispute they would vacate the

quarters by 31.03.2021, has been averred in Para 2 of the affidavit.

11. Learned Senior Counsel for the petitioner has also further clarified that, at any rate before 31.03.2021 these 13 out of the 14 employees would vacate the respective quarters of the third respondent.

12. The said statement made by the learned Senior Counsel appearing for the petitioner Union on behalf of the employees, is taken on record.

13. In view of the above, by recording the averments made in the undertaking affidavit by each of the 13 employees out of the 14 employees, this Court is inclined to dispose of this writ petition in the following terms.

- (a) The undertaking affidavit filed by 13 out of 14 employees are hereby taken on record.
- (b) As per the said undertaking affidavit, each of such 13 employees shall vacate their respective quarters where they are residing as of now, on or before 31.03.2021 and hand over vacant possession by that date.
- (c) Whatever the issue pending between the third respondent and the Employees Union or the employees individually either before the Industrial Tribunal or any other Forum, that would not stand in the way for complying with the aforesaid direction by vacating the premises by 31.03.2021.
- (d) In respect of one employee viz., Anbu, since he has not come forward to file the undertaking affidavit, the writ petition in respect of the said employee is dismissed. Therefore, the third respondent shall be at liberty to take legal steps to vacate the said employee from the quarters where he is residing now, in the manner known to law.
- (e) In view of the above, after complying the orders of this Court, of course on the basis of the undertaking affidavit, the petitioner Union shall file a compliance report before this Court in the second week of April 2021.

14. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The District Collector
Chennai Collector Fourth Floor
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- 2 The Chief Secretary Revenue and
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Fort St.George, Chennai - 600009
- 3 The Chief Executive Officer
The Management of Madras Race Club
Guindy Chennai - 600032

+1cc to M/s.T.Balaji, Advocate in Sr.38807

W.P.No.16211 of 2020

BP(CO)
RV(31/12/2020)

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