

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.6616 of 2016
and
W.M.P.No.5886 of 2016

Pondicherry Agro Service and Industries
Corporation Limited, rep. by Managing Director,
Agro House, Thattanchavadi,
Pondicherry - 605 009. Petitioner

vs

1. Presiding Officer,
The Labour Court at Puducherry.
2. Pondicherry Agro Service & Industries
Corporation Employees & Workers
Association, (PASIC Uzhiyar Matrum Thozhilalar
Sangam) rep. by its President, Secretary.
S.Gandhi, Door No.26, Palla Street,
1st Street, Muruganpakkam,
Puducherry - 605 004. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the impugned order dated 09.02.2016 made in I.A.No.1/2016 in I.D.(L).No.6/2014 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr.R.Jayaprakash
for Mr.S.Ashok Kumar

For Respondents : Mr.R.Thiagarajan for R2

O R D E R

This writ petition is filed challenging the order made in I.A.No.1/2016 in I.D.(L)No.6/2014 dated 09.02.2016.

2. The petitioner is the Management. They filed the said Interlocutory Application before the Labour Court to decide the preliminary issue regarding the legal competency of the respondent Union to maintain the Industrial Dispute and jurisdiction of the Labour Court to entertain the same. The Labour Court, after considering the said issue elaborately, found that the respondent Union is legally competent to represent its members/employees and to raise the Industrial Disputes and that the Labour Court has got jurisdiction to entertain the same, referred by the Government by the notification.

3. Learned counsel for the petitioner/Management contended that the respondent Union having not been registered under the Trade Union Act, is not entitled to maintain the I.D. before the Labour Court as if it is representing the workers. In other words, it is his contention that the individual workers can join together and raise the dispute before the Labour Court and not the respondent. He further submitted that the respondent Union admittedly, was registered under the Societies Registration Act and therefore, the same is not entitled to maintain the I.D. before the Labour Court as it is not a registered Union under the Trade Union Act, 1956. Learned counsel for the petitioner, in support of his submission relied on the Division Bench decision of this Court made in W.A.No.968/2012 dated 06.04.2016.

4. Per contra, learned counsel appearing for the 2nd respondent submitted that the very writ petition itself is not maintainable as against the Interlocutory Application order passed by the Labour Court in deciding the jurisdictional issue. He further submitted that all the points raised by the writ petitioner herein can be raised and agitated once a final award is passed on merits and in accordance with law and therefore, no prejudice would be caused to the writ petitioner. He further submitted that it is only to prolong the matter, the present issue, arising out of jurisdiction is raised. In support of his submission, he relied on the Division Bench decision reported in 1995 (1) LLJ 544 (Agro Group Transport Ltd. vs. E.Murugan and anr.), the decision of the learned single Judge reported in 1998(2) LLN 510 (Belersdorf India, Ltd. and K.R.Gopalan and another) and the decision of the Hon'ble Apex Court reported in 1996(2) LLJ 125 (National Council for Cement and building Materials vs. State of Haryana & Ors.).

5. Heard both sides. Perused the materials placed before this Court.

6. The point for consideration in this writ petition is as to whether this Court has to exercise its discretionary jurisdiction to interfere with the order made in an

Interlocutory Application, holding that the Industrial Disputes raised by the 2nd respondent Association is maintainable and that the Labour Court has jurisdiction to entertain and decide the I.D. No doubt, the Labour Court has passed a detailed order touching upon the merits of the jurisdictional issue. At the same time, it is to be noted that the points raised in this writ petition against the findings rendered by the Labour Court in respect of such jurisdictional issue are always available to the writ petitioner for raising the same once the final award is passed and if the same goes against their interest. If the merits of the matter is also allowed to be decided by the Labour Court, especially, when it is found that the Labour Court has jurisdiction to entertain the I.D., it is not going to prejudice the Management in the trial in any manner, as the issue raised in the I.D. has to be considered and decided, based upon the pleadings and materials placed by both parties and evidence let in by them in support of such pleadings and materials. It would be a different matter, if the Labour Court has allowed the Interlocutory Application and held that it has no jurisdiction. In effect, allowing the application on the jurisdictional issue and holding that it has no jurisdiction to entertain the I.D. in effect, is the dismissal of the I.D. on the maintainability itself. Therefore, under such circumstances, this Court can entertain the writ petition and decide. On the other hand, if the Labour Court finds that the I.D. is maintainable, as by deciding the preliminary issue, it would be better to allow the Labour Court to decide the other issues as well so as to enable the aggrieved parties to challenge the said award by raising all the points, including the points against the findings on the jurisdiction issue.

7. The Division Bench decision relied on by the learned counsel for the petitioner is arising out of the order of the Writ Court, which in turn, arises out of the order passed by the Government of India, Ministry of Labour in refusing to refer the dispute raised by the Appellant Association therein for adjudication under Section 10 of the Industrial Disputes Act, 1947. Therefore, it is evident that the very refusal to refer the dispute is in effect, is a final adjudication between the parties and therefore, the matter was entertained by this Court and a decision was made therein. In this case, as I pointed out earlier, the Labour Court has found that the dispute is maintainable at the instance of the 2nd respondent. Hence, I find that the above decision is not helping the petitioner to maintain the present writ petition against the interim order passed by the Labour Court.

8. In 1995 (1) LLJ 544 (Agro Group Transport Ltd. vs. E.Murugan and anr.), the Division Bench of this Court found that the High Court under Article 226 of the Constitution does

not interfere at the stage, on a finding recorded on a preliminary issue because it is open to the Management to take up all the contentions at the later stage, if the award goes against it. In 1998(2) LLN 510 (Belersdorf India, Ltd. and K.R.Gopalan and another), the Writ Court has taken similar view by hold that inasmuch as it is open to the writ petitioner to urge the objection regarding the jurisdiction when the order of the Labour Court is challenged, it is not possible for the High Court to exercise the judicial review in such matters at that stage. Similarly, the Apex Court in 1996(2) LLJ 125 (National Council for Cement and building Materials vs. State of Haryana & Ors.) observed that the decision of the High Court therein was fully in consonance with the law laid down by the Hon'ble Apex Court in refusing to intervene with the proceedings pending before the High Court at the interlocutory stage.

9. In view of the above facts and circumstances and without expressing any view on merits of the order passed by the Labour Court which is impugned in this writ petition, this Writ Petition is disposed of by granting liberty to the petitioner to raise all the points raised in this writ petition after the final award is passed by the Labour Court, if such award goes against their interest. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vsi

To

The Presiding Officer,
The Labour Court at Puducherry.

+lcc to Mr.R.Thiagarajan, Advocate, SR.No.11221.

+lcc to Mr.S.Ashok Kumar, Advocate, SR.No.11338.

CA(CO)

CSR: 10.02.2020

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