

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.22914 of 2019

and

W.M.P.No.22551 of 2019

Thiruvallur Mavatta Pothu Thozhilalargal Sangam
Rep. by tis General Secretary,
Reg.No.96/TVR, No.17 Selai Road,
Annamalai Nagar,
Thiruvallur - 602 001.

.. Petitioner

vs

1. Government of Tamilnadu
rep. by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.

2. Deputy Comissioner of Labour
(Conciliation-II),
Kuralagam,
Chennai - 600 108.

3. The Management of BGR Energy Engineering Ltd.,
rep. by its Chairman,
443, Annasalai, Teynampet,
Chennai - 600 018.

4. AIRFIN Cooler Division, rep.
by its President
No.443, Annasalai, Teynampet,
Chennai - 600 018.

5. The General Manager,
AIRFIN Cooler Division,
No.9, GNT Road,
Panjetty Post, Ponneri Taluk,
Thiruvallur District - 601 204.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the 2nd respondent to complete the Conciliation Proceedings in Na.Ka.No.A/374 of 2018 dated 9.2.2019 and the complaint dated 15.07.2019 with regard to the illegal lock out from 13.07.2019 and to bring a settlement under Section 12(3) of the ID Act

within a specified time and to submit a failure report to the 1st respondent that there is no possibility for any settlement; directing the 1st respondent to refer the dispute with regard to the charter of demands covered by Na.Ka.No.A/374/2018 and the dispute with regard to illegal lock out from 13.07.2019, for adjudication to the competent Tribunal/ Labour Court and to issue an order under Sections 10-B and 10(3) of the ID Act prohibiting the continuance of lock out and forbearing the respondents 3 to 5 from either bringing new workmen and from removing or shifting the Plant and Machineries, unfinished goods and the raw materials from the factory of the 5th respondent and from carrying out the production work of the 5th respondent factory in any other place or factory, without first, reinstating the members of the petitioner union and without giving employment to them and until the matter is either settled or adjudicated and award costs.

For Petitioner : Mr.V.Ajoy Khose
For Respondents: Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1 and R2
Mr.D.Ravichander
for R3 to R5.

O R D E R

This Writ Petition is filed seeking for the following relief:

To issue Writ of Mandamus to direct the 2nd respondent to complete the Conciliation Proceedings in Na.Ka.No.A/374 of 2018 dated 9.2.2019 and the complaint dated 15.07.2019 with regard to the illegal lock out from 13.07.2019 and to bring a settlement under Section 12(3) of the ID Act within a specified time and to submit a failure report to the 1st respondent that there is no possibility for any settlement; directing the 1st respondent to refer the dispute with regard to the charter of demands covered by Na.Ka.No.A/374/2018 and the dispute with regard to illegal lock out from 13.07.2019, for adjudication to the competent Tribunal/ Labour Court and to issue an order under Sections 10-B and 10(3) of the ID Act prohibiting the continuance of lock out and forbearing the respondents 3 to 5 from either bringing new workmen and from removing or shifting the Plant and Machineries, unfinished goods and the raw materials from the factory of the 5th respondent and from carrying out the production work of the 5th respondent factory in any other place or factory, without first, reinstating the members of the petitioner union and without giving employment to them and until the matter is either settled or adjudicated and award costs.

2. Heard the learned counsels appearing on either side.

3. Learned counsel appearing for the respondents 3 to 5 submitted that conciliation proceedings before the 2nd respondent failed and to that effect, the 2nd respondent has communicated to the 1st respondent through his communication dated 07.01.2020. He has produced a copy of the said communication. Since the conciliation proceedings before the 2nd respondent failed and a failure report is also sent to the 1st respondent as stated supra, the 1st respondent shall act accordingly and refer the dispute before the Labour Court as provided under the Industrial Disputes Act.

4. Learned Additional Government Pleader submitted that since the failure report was submitted by the 2nd respondent only on 07.01.2020, appropriate action will be taken by the first respondent without loss of further time.

5. The above said statement is recorded. The Writ Petition is disposed of, without expressing any view on the merits of the claim made by both parties. The 1st respondent shall pass appropriate orders for the reference within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

vsi
To

1. The Secretary,
Government of Tamilnadu
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.

2. The Deputy Commissioner of Labour
(Conciliation-II), Kuralagam,
Chennai - 600 108.

+1 CC to Mr.V.Ajoy Khose, Advocate sr 5108.
+1 CC to Mr.D.Ravichander, Advocate sr 4576.

W.P.No.22914 of 2019

VGII(CO)
SP(13/02/2020)