



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **08.01.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.7502 of 2013

and

M.P. (MD) .No.1 of 2013

WEB COPY

Madurai Thaiyal Thozhilalar Sangam,
Madurai Tailoring Workers Union,
(Registration No.1195/MDU),
rep. by its General Secretary,
S.Santhiyagu,
Having Office at
19, Bharathiyar Road,
Melaponnagaram,
Madurai -16.

.. Petitioner

Vs.

The Labour Welfare Officer,
Social Security Scheme,
Madurai District,
Madurai.

.. Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the order of the respondent in Na.Ka.No.1128/12, dated 15.03.2013 and quash the same.

For petitioner : Mr.A.Haja Mohideen
For respondent : Mr.D.Muruganandham,
Addl. Government Pleader

ORDER

This petition has been filed by the petitioner / Sangam questioning the order by which the respondent temporarily banned the activities of the petitioner Sangam.

2.The learned counsel for the petitioner submitted that the petitioner Sangam is a registered Trade Union. It was established 30 years ago. Totally, 4126 workers are members of the Sangam. The object of the Sangam is to regulate relationship between the employer and employees; to assist the members to get benefits under various schemes introduced by the Government; to protect the interest of the Tailoring workers; to settle the dispute between the employer and employee; etc. As such, the petitioner has been actively assisting the members. While so, the respondent has issued a notice dated 21.12.2012 to show cause as to why the registration of the Sangam shall not be cancelled stating that the petitioner Sangam has acted fraudulently to receive Government funds by



recommending the case of one Jamunarani knowing fully well that financial assistance cannot be obtained for third child. After receipt of show cause notice, on 31.12.2012 the petitioner has requested the respondent to furnish a copy of the application and other papers submitted by the said Jamuna Rani for giving proper explanation. The respondent has received the same on 05.01.2013. But, the respondent has refused to furnish the details by his reply dated 14.03.2013 and on the next day, ie., on 15.03.2013, the respondent has passed the impugned order holding that since no explanation was offered by the petitioner Union after completion of 15 days period, it confirms the mistake committed by the petitioner and thereby, suspended functioning of the petitioner Union in respect of registration, renewal and submitting claim applications before the Board under the scheme. On 20.03.2013, the petitioner Sangam sent a detailed explanation, but the same has not been considered by the respondent. More over, in similar circumstances, the respondent has issued another impugned order on 07.09.2012 and it was challenged before this Court in W.P.(MD).No.15382 of 2012 and that impugned order was stayed and that writ petition is still pending.

3. The learned counsel for the petitioner would further submit that the respondent has failed to give reasonable opportunity to the petitioner by non furnishing relevant documents and that the respondent has hurriedly passed the impugned order without awaiting the explanation of the petitioner. He would further submit that the respondent has no authority to pass the impugned order and the impugned order is passed in violation of fundamental rights guaranteed under Article 19(1)(c) of the Constitution of India. Thus, he prayed to set aside the impugned order.

4. The learned Additional Government Pleader appearing for the respondent submitted that the petitioner Sangam, knowing fully well that education assistance cannot be obtained for third child, has recommended the case of one of the members and thereby fraudulently acted to receive the Government funds and hence, the respondent has issued a show cause notice. The petitioner had not given his explanation within the time stipulated and hence, the impugned order has been passed. The explanation given by the petitioner dated 20.03.2013 is not acceptable. Hence, the impugned order is valid and the same need not be interfered with. Thus, he prayed to dismiss this Writ Petition.

5. Heard the learned counsel for both sides and perused the records carefully.

6. Even according to the respondent, the petitioner Sangam has only recommended the case of a Member by name Mrs.Jamunarani for educational assistance. It is not in dispute that it is the duty of the respondent to verify the recommendation of the petitioner and



that as soon as the receipt of any recommendation from the petitioner, they would approve the same without even verification and sanction the amount. Even assuming that the petitioner Sangam has recommended for educational assistance for third child of a member, it is always open to the respondent to reject the application, if the scheme does not provide for such benefit to a third child. More over, it is not the case of the respondent that the petitioner Sangam has swindled the funds of the Government. When that be so, the respondent cannot fix entire responsibility on the petitioner Sangam. The respondent could have instructed the petitioner properly. But, it is seen that the respondent has issued a notice dated 21.12.2012 to show cause as to why the registration of the Sangam shall not be cancelled.

7. It is seen that the petitioner Sangam has sent a letter dated 31.12.2012 seeking documents relied on by the respondent. But, the respondent has sent a reply on 14.03.2013 refusing to furnish the said documents and on the next day ie., on 15.03.2013, the respondent has passed the impugned order hurriedly holding that the petitioner has accepted his guilt by not furnishing the explanation. In the counter affidavit, the respondent has not disputed about the reply given by him refusing to furnish the documents sought for by the petitioner. It is the contention of the petitioner that by not furnishing a copy of the relevant documents, the petitioner has been deprived of reasonable opportunity and he could not give proper reply within the time stipulated and defend his case. Such contention of the petitioner has force. As there is a violation of principles of natural justice, the impugned order is liable to be set aside.

8. The respondent has not shown any provision fixing liability on the petitioner Sangam for recommendation of unauthorised claim. Though the petitioner questioned the authority of the respondent to pass the impugned order, the same has not been meted out by the respondent in the counter affidavit. The impugned order also does not show as to under what authority such order is passed by the respondent.

9. Viewing from any angle, the impugned order is liable to be set aside and accordingly, it is set aside.

10. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



gcg

To

The Labour Welfare Officer,
Social Security Scheme,
Madurai District,
Madurai.

+1 CC to SPL.GP (SR-959[F] dated 09/01/2020)

+1 CC to Mr.A.HAJAMOHIDEEN, Advocate (SR-905[F] dated 08/01/2020)

Order made in
W.P (MD) No.7502 of 2013
08.01.2020

MK (19.02.2020) 4P 4C