

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.1173 of 2021

and

W.M.P.Nos.1320 and 1321 of 2021

Dravida Thozilalar Uzhiyar Sangam,
Rep. by The General Secretary,
R.S.Manimaran,
No.110, SPT Mani Nagar,
Vadakutha, Kurinjipadi,
Cuddalore District - 607 308. ... Petitioner

vs.

The Deputy Chief Labour Commissioner (Central),
No.26, III Block,
5th Floor, Shastri Bhavan,
Haddows Road, Nungambakkam,
Chennai - 600 006. ... Respondent

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records from the Respondent relating to the election rules dated 23.12.2020 and quash the Rule 3(1) and direct the Respondent to permit the Petitioner Sangam to participate in the Union Election to be held on 04.02.2021.

For Petitioner : Mr.N.G.R.Prasad
for Mr.R.Rajaram
For Respondent : Mr.P.Ayyasamy (CGSPC)

O R D E R

The present writ petition has been filed to call for the records from the respondent relating to the election rules dated 23.12.2020 and the quash the Rule 3(1) and to direct the respondent to permit the Petitioner Sangam to participate in the Union Election to be held on 04.02.2021.

2. The petitioner is a duly registered as a Trade Union under the Neyveli Lignite Corporation of India Limited having Registration No.332/CDR dated 12.10.2020. The management and unions of the Neyveli Lignite Corporation of India Limited have entered an agreement wherein the code of discipline for conduct of election shall be by secret ballot and Rule 3(1) of the code of procedure for conducting election stipulates the eligibility criteria for the above one year.

3. According to the learned counsel appearing for the petitioner, the petitioner has the majority of the employees as members of the union, but by introduction of a clause in the agreement its right to contest the election has been taken away in violation of the Article 19(1)(c) of the Constitution of India. Therefore, he seeks a direction to the respondent to permit the petitioner to participate in the democratic process.

4. On perusal of the materials placed before this Court, it is seen that the Code of Discipline has been framed through by bipartite agreement between representatives of the employers and employees on All India basis. Wherein, certain procedures for conduct of election has been specified. Accordingly, it is binding upon all the parties, who are signatories. It is also pertinent to note that the Hon'ble First Division Bench of this Court in W.A. No.502 of 2002 etc., batch by its order dated 11.12.2007 in respect of the very same subject between the concerned parties had given a direction whereby all the labour unions were permitted to participate in the elections and also codified the method for recognition of the unions. It is admitted fact that on 23.12.2020, the Management and all the Unions of Neyveli Lignite Corporation, except the petitioner Union have entered into an agreement and signed the procedure for conduct of election by secret ballot.

5. The prayer of the petitioner that Rule 3(1) of the procedure to conduct of election by secret ballot is to be struck off. It is well settled that the bipartite settlement and Code of Discipline is binding upon the petitioner Union also. It is also well settled that the recognition of the union is a non-statutory function and as such the petitioner has no statutory right to enforce the same. It is done by Chief Commissioner of Labour (Central) upon request. Bearing all these aspects in mind the issue has to be analyzed.

6. It is true that the registered union shall be allowed to participate in the election which is the democratic process. But the Code of Discipline and criteria for recognition of union agreed upon by the Management and Unions is binding upon the petitioner also. Court exercising its power under Article 226 of the Constitution of India cannot re-legislate the agreed terms

and conditions entered between the parties. Therefore, the prayer as such can not be granted, that too in the absence of necessary parties.

7. Though the learned counsel sought for a larger relief, would restrict it to reconsideration of the request in consultation with other unions. If the other Unions have no objection, the respondent can permit the writ petitioner to participate in the democratic process.

8. Considering the limited prayer a direction is given to the respondent to consider the request of the petitioner Union, in consultation with all the stakeholders and take a decision as to whether the petitioner Union can be permitted to participate in the election or not?.

9. The process shall be completed at the earliest, after affording opportunity to all the stakeholders.

The Writ Petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Chief Labour Commissioner (Central),
No.26, III Block,
5th Floor, Shastri Bhavan,
Haddows Road, Nungambakkam,
Chennai - 600 006.

+1cc to Mr.R.Rajaram, Advocate, SR2369

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CO(SV)

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