

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.2959 of 2021
and W.M.P.No.3325 of 2021

Sodecia India Thozhilalar Sangam,
Reg.No.224/KPM,
Rep. by its General Secretary,
No.133, Gangai Amman Kovil Street,
Tabalmedu, Pukkathurai Post,
Padalam Via, Kancheepuram - 603 308.

... Petitioner

Vs.

1. The Deputy Commissioner of Labour (Conciliation-1),
SIPCOT Office Complex,
Irungatukottai, Sriperumbudur,
Kancheepuram.
 2. The Management of Sodecia India Private Limited,
Rep. by its Managing Director,
Tapalmedu, Pukkathurai,
Mathuranthangam, Kancheepuram - 603 308.
 3. Mr.D.Baskar
Enquiry Officer,
C/o. The Management of Sodecia India Private Limited,
Rep. by its Managing Director,
Tapalmedu, Pukkathurai,
Mathuranthangam, Kancheepuram - 603 308.
 4. Mr.K.S.Karthikeyan
C/o. The Management of Sodecia India Private Limited,
Rep. by its Managing Director,
Tapalmedu, Pukkathurai,
Mathuranthangam, Kancheepuram - 603 308.
- ... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the second respondent Conciliation Officer to commence and conclude the conciliation proceedings in respect of industrial dispute dated 23.12.2020 and send the Failure Report within such time as stipulated by this Court.

For Petitioner : Mr.K.Sudalai Kanna
for M/s.S.R.Bubala Chandran
For Respondent
Nos.1 & 2 : Mr.B.Anand
Government Advocate
For Respondent
No.3 : M/s.Srinath Sridevan
- - - - -

O R D E R

The grievance of the petitioner is that the Petitioner Union entered into a wage Settlement dated 01.12.2011 with the second respondent Management and the said Settlement has expired on 30.06.2013. Therefore, the Union presented a charter of demands for wage revision dated 02.12.2014. In the bilateral negotiations, the Management and the Union could not arrive at a Settlement and therefore, the matter was referred to a Conciliation Officer. Eventually, the Conciliation Officer could not arrive at a Settlement and the matter was referred to the Industrial Tribunal, Chennai, as I.D.No.35 of 2015.

2. The Labour Court, by its Award dated 20.12.2019, held that certain demands are justified and rejected certain other demands. The Management filed a Writ Petition in W.P.No.1015 of 2020 before this Court and this Court has stayed the Award passed in the above I.D.No.35 of 2015. The Union also is taking steps to challenge that portion of the Award, which was rejected against the Union.

3. During the pendency of the Writ Petition, the Management initiated disciplinary proceedings against the members and the office bearers of the Union and dismissed 67 workers and their respective approval applications are pending before the Industrial Tribunal, Chennai.

4. Thereafter, the Management made allegations against 19 more workers, who are the members of the Petitioner Union and appointed three Enquiry Officers. The third respondent is an Enquiry Officer in the present Writ Petition. The other two Enquiry Officers have found that the workers are not guilty. Since the Government has not commenced the conciliation proceedings, W.P.No.11292 of 2020 was filed, which was disposed of by this Court on 24.08.2020, to conclude the conciliation proceedings in terms of Section 12(6) of the Industrial Dispute Act, 1947, in the manner prescribed thereunder by enforcing any beneficial right. The Conciliation Officer recorded the failure of the conciliation and submitted the report on 11.12.2020 and the respondent Management dismissed 5 out of 19 workers involved

in the industrial disputes and remaining 14 workers were issued show cause notice and they are likely to be dismissed.

5. In such circumstances, 11 workers have requested the Management by letter dated 03.12.2020 for change of Enquiry Officers who are the third and fourth respondents herein and further requested for appointment of Enquiry Officers from and out of panel of Enquiry Officers and it has to be finalized after discussion with the Petitioner Union. Since the second respondent Management did not respond the letter dated 03.12.2020 and proceeded with the enquiry, the Petitioner Union filed an application before the Deputy Commissioner of Labour (Conciliation-1), seeking to change the Enquiry Officers and to appoint new Enquiry Officers.

6. It is the grievance of the Petitioner Union that the dispute raised on 23.12.2020 was not commenced and the conciliation proceedings were not concluded as mandated by the Act. Therefore, the present Writ Petition has been filed seeking a direction directing the Conciliation Officer to commence and conclude the conciliation proceedings with respect of the industrial dispute dated 23.12.2020.

7. The learned counsel appearing for the respondent Management would vehemently contend that the Conciliation Officer has no authority or power to decide in respect of an Enquiry Officer appointed in a domestic enquiry. It is beyond the scope of the Industrial Disputes Act. There cannot be any conciliation with regard to change of Enquiry Officer and hence, the conciliation proceedings is without basis and cannot be held.

8. It is noted that the Petitioner Union has raised the dispute before the Conciliation Officer on 23.12.2020. This Court is not inclined to record any finding on merits of the matter. The Conciliation Officer shall consider and pass orders in accordance with law as to whether he can entertain this application or not within 14 days as mandated under Section 12 (6) of the Industrial Disputes Act, 1947, but, the Conciliation Officer cannot keep it in cold storage.

9. Considering the facts and circumstances of the case, a direction is given to the first respondent to take a decision as to whether the matter can be conciliated or not. If it can be entertained, he shall pass orders in accordance with law, within a period of 14 days from the date of receipt of a copy of this order. It is open to both the sides to put forth all their submissions before the Conciliation Officer.

The Writ Petition is ordered, accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

asi

To

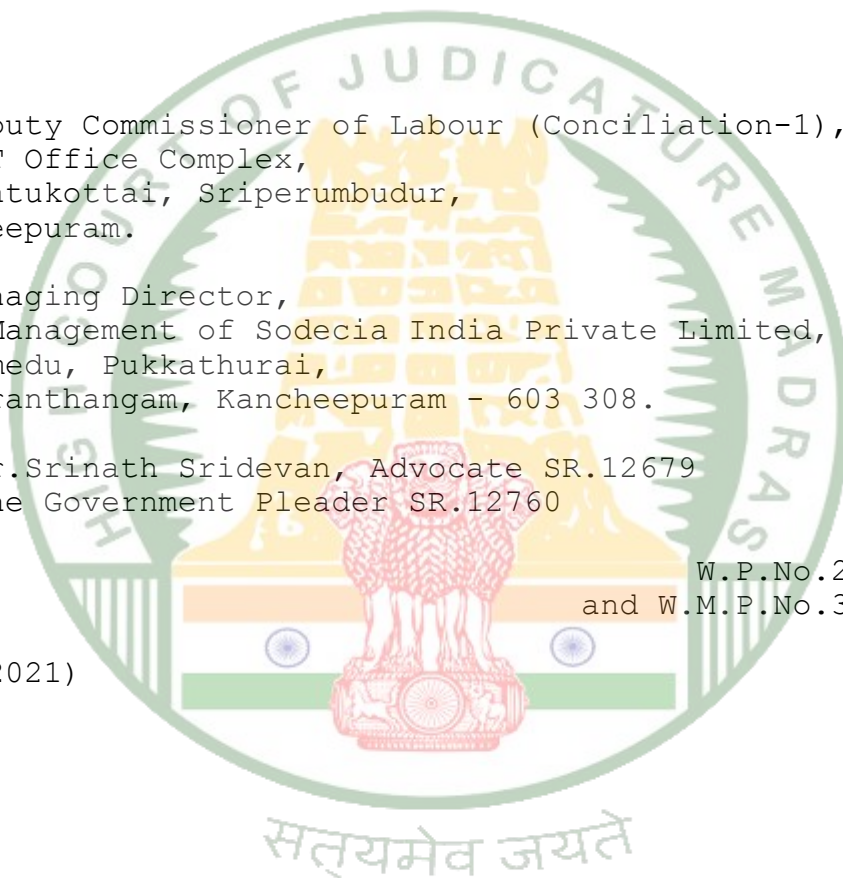
1. The Deputy Commissioner of Labour (Conciliation-1),
SIPCOT Office Complex,
Irungatukottai, Sriperumbudur,
Kancheepuram.
2. The Managing Director,
The Management of Sodecia India Private Limited,
Tapalmedu, Pukkathurai,
Mathuranthangam, Kancheepuram - 603 308.

+1cc to Mr.Srinath Sridevan, Advocate SR.12679

+1cc to the Government Pleader SR.12760

W.P.No.2959 of 2021
and W.M.P.No.3325 of 2021

PL (CO)
CB (18/03/2021)



WEB COPY