



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2050 of 2015

D. Nagarajan

... Petitioner

-vs-

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

2. The Deputy Registrar of Co-operative Societies,
Cheyyar Circle, Cheyyar,
Tiruvannamalai District.

3. The Labour Officer,
No.55/1, Gandhi Nagar 10th Street,
Thiruvannamalai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 2 and 3 to take necessary steps to implement the Award dated 24.01.2012 in I.D.No.90 of 2011 passed by the Labour Court, Vellore.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate for R1 to R3

ORDER

This writ petition has been filed, seeking a direction to the respondents 2 and 3 to take necessary steps to implement the Award dated 24.01.2012 in I.D.No.90 of 2011 passed by the Labour Court, Vellore.

2. Heard both sides and perused the materials available on record.

3. A reading of the representation dated 16.06.2014 made by the Petitioner is very clear that the petitioner wanted the



Award to be implemented, as the Management had not complied with the Award. It is to be noted that in case of non-implementation of the Award, it is open to the petitioner to initiate criminal prosecution against persons falling under Section 32 of the I.D.Act, 1947 the officers concerned, who are liable to implement the Award. If any complaint under Section 29 is made by the petitioner, criminal action should be taken against the officers, who are responsible for implementing the order, and the Government will have to sanction prosecution against those persons to bring the issue into logical end. The Government shall also take into account the principles laid down in the decision of the Apex Court in the case of Rajkumar Gupta vs. Lt. Governor, Delhi reported in 1997 (1) LLJ 994. This Court wants to point out that when the petitioner seeks for implementation of the Award, it is open to him to seek the claim under Section 33C(1) read with Section 11 B of the Industrial Disputes Act, 1947 and the admitted amount can be determined in the light of the decision of the Apex Court in the case of Fabril Gasosa vs. Labour Commissioner, reported in (1997) 3 SCC 150 and in case of disputed amount, the disputed portion can be adjudicated and computed by the appropriate Labour Court, when an application under Section 33C(2) of the Industrial Disputes Act, 1947 is filed.

4. It is pertinent to mention here that the Hon'ble Supreme Court in the case of The Life Insurance Corporation of India vs. D.J.Bahadur and Others, reported in 1980 AIR 2181 held that the Award or the Settlement would continue to be in force till such time the same is substituted by another Award or Settlement.

5. If there is no stay of the Award, the Award needs to be implemented and pendency of the writ petition is not a bar for the aforesaid proceedings, under various provision mentioned supra. This Court is empowered to direct the Management to implement the Award and in case the order, in so far as the admitted amount is concerned, is not complied with, for non implementation of this order, parties are entitled to file contempt and the Court will decide whether there is wilful or deliberate disobedience. Prosecution under Section 29 of the Industrial Disputes Act is different from contempt proceedings and both can go simultaneously.

6. For the foregoing discussion and observation the writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dpq



To:

1. The Secretary to Government
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Fort St.George,
Chennai 600 009.

2. The Deputy Registrar of Co-operative Societies,
Cheyyar Circle, Cheyyar,
Tiruvannamalai District.

3. The Labour Officer,
No.55/1, Gandhi Nagar 10th Street,
Thiruvannamalai.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.30492
+1cc to the Government Pleader, S.R.No.30214

W.P.No.2050 of 2015

SSD(CO)
HS(04/08/2021)