



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.13073 of 2021
and W.M.P.Nos.13881 & 13884 of 2021

Maiva Pharma Pvt. Ltd.,
No.32, SIPCOT Industrial Complex,
Phase-I, Hosur-635 126.
Rep. by its Senior Manager (HR&IR) Mr.Karthi

... Petitioner

-vs-

1.Maiva Pharma Employees Union affiliated to
Labour Progressive Federation
(R.No.560/04 DRP), 187/5, 9th Cross Street, Kamaraj Nagar,
Chinna Elasagiri, Hosur-635 109,
Krishnagiri District.

2.Labour Office Krishnagiri,
Combined Court Building Complex,
Rayakottai Road, Wahab Nagar,
Krishnagiri, Tamil Nadu-635 002.

3.Inspector of Police,
SIPCOT, Hosur-635 126.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the 1st Respondent i.e. the Trade Union and its members or any person acting at its behest and employees of the petitioner company from indulging in any work stoppage/strike/ remaining unauthorizedly in the factory premises beyond working hours and/or in any manner preventing contract labour from entering the premises of the factory to carry out duties, or in any manner interfering/disrupting the production of essential medicines such as betamethasone, rocuronium bromide, iron sucrose etc and thereby render justice.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
M/s.S.Ramasubramaniam and Associates

For R1 : Mr.V.Stalin



For R3

: Mr.LSM.Hasan Fizal
Govt. Advocate

O R D E R

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This writ petition has been filed, seeking to forbear the 1st Respondent from indulging in stoppage of work, strike, remaining unauthorizedly in the factory premises beyond working hours and / or in any manner preventing Contract Labourer from entering the premises of the factory to carry out duties, or in any manner interfering / disrupting the production of essential medicines such as betamethasone, rocuronium bromide, iron sucrose etc.

2. Mr.V.Stalin, learned counsel takes notice for R1 and Mr.LSM.Hasan Fizal, Government Advocate for R3. By consent, the Writ Petition is taken up for final disposal at the admission stage. Since the 2nd Respondent is a formal party, notice to R2 is dispensed with.

3. The case of the Petitioner-Factory is that their products are covered under National List of Essential Medicines (NLEM) and currently, they are manufacturing corticosteroid and anesthesia products for treating Covid-19 patients. In the factory, there are around 422 employees and more than 100 Casual Labours have been working and other 125 employees are employed as Workmen, apart from other staff cadre. The further case of the Petitioner-Factory is that a group of inspection operators have gone on illegal strike and other permanent workmen also joined them for strike and on 19.06.2021, the Petitioner-Factory requested the 3rd Respondent to depute adequate Police force for controlling the employees, who were on strike so as to ensure peaceful working of the remaining employees in the factory. It is also the case of Petitioner-Factory that the drugs being manufactured by them are highly essential and their industry falls under the essential services, the Petitioner is before this Court, seeking for the aforesaid relief.

4. Learned Senior Counsel for the Petitioner submitted that even though Union had issued a strike notice in the month of May, 2021, they did not go on strike and the conciliation process has been initiated. Few days back, there were talks with regard to settlement and unfortunately, nothing was materialized. It is further submitted that when the Factory is in the process of production of life saving drugs, on account of illegal strike, the entire production may become standstill. The demand of the Union to increase wages needs to be adjudicated before the Appropriate Tribunal / Labour Court, depending upon the reference that may be made by the Government. It is also



submitted that when there is an extraordinary situation prevailing in the Factory premises, it requires an immediate order from this Court, namely, injunction.

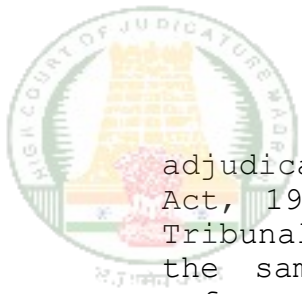
5. Subsequently, the matter was passed over so as to enable the learned Senior Counsel appearing for the Petitioner to get instructions with regard to the possibility of increase in wages as an interim arrangement. When the matter was called at 3:15pm, learned Senior Counsel for the Petitioner submitted that the Management is willing to pay a sum of Rs.1,500/- per month from 01.04.2021 to each of the employees over and above the salary that is being drawn by them.

6. Learned counsel for the 1st Respondent / Union requested that instead of payment of Rs.1,500/- from 01.04.2021, the said benefit may be extended from January, 2021, which has been fairly conceded by the Management, as confirmed by the learned Senior Counsel. Learned counsel further requested that a bus facility to pick up and drop may be provided to those employees, who are travelling from long distance.

7. Learned Senior Counsel for the Management stated that though the employer is entitled to suspend an employee, on advice, the Management has decided not to suspend any of the employees and that the employees have to report for work from tomorrow.

8. Taking note of the submissions of both parties, without going into the question of maintainability of this petition, the employees are expected to report for work with immediate effect and do their normal duties without creating any hardship with regard to manufacturing of life saving drugs. The Management shall keep up their words with regard to payment of Rs.1,500/- from January, 2021 over and above the wages being drawn by the employees and the said amount is without prejudice to the rights of parties in the Industrial Dispute. The Management shall also take a decision for providing bus facility to the employees. It is open to the employer either to drop the disciplinary proceedings or to proceed against the employees without suspending them as stated by the learned Senior Counsel for the Management.

9. The Conciliation Officer is directed to conciliate the pending dispute and try to bring about an amicable settlement between the parties. In case there is no settlement between the parties on account of divergent views, the Conciliation Officer shall submit a Failure Report to the Government within 14 days from the date of conclusion. On receipt of the Failure Report, the Government shall take a decision within 14 days thereafter in respect of referring the matter to the Appropriate Forum for



adjudication in terms of Section 10 of the Industrial Disputes Act, 1947. In the event of any such reference being made, the Tribunal or Labour Court shall take up the reference and decide the same, within a period of six months from the date of reference by the Government, bearing in mind the provisions of Rule 34 (9) of The Tamil Nadu Industrial Disputes Rules, 1958, while granting adjournment.

10. It is made clear that the observations made herein-above touching upon the merits of the matter, if any, are only for the purpose of disposal of this Writ Petition, as an interim measure and it has no binding effect on the Tribunal / Labour Court and both parties have rights to put forth the factual aspects available to them before the Forum.

11. With the above observation and direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

// True Copy//

Sub Assistant Registrar

ar

To:

1.The Inspector of Police,
SIPCOT,
Hosur-635 126.

2.The Labour Office, Krishnagiri
Combined Court Building Complex
Rayakottai Road, Wahab Nagar,
Krishnagiri.

+1cc to M/S.Row & Reddy, Advocate, S.R.No.29082
+1cc to M/S. S.Ramasubramaniam & Associates, Advocate,
S.R.No.28935
+1cc to the Government Pleader, S.R.No.29052

W.P.No.13073 of 2021

PA(CO)
SU(09/08/2021)