



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.14470 of 2021

Kumar Agro Workers Union,
Regn.No.529/TVR,
Rep. by its President Mr.I.Robert Rajan,
No.197/8, J.N.Road, Oil Mill,
Thiruvallur - 602001.

...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Labour and Employment,
Fort St. George, Chennai - 600009.

2.The Deputy Commissioner of Labour-I,
Kuralagam, Chennai - 600108.

3.M/s.Kumar Agro Tech Private Limited,
Rep. by its Managing Director,
Plot No.54, Vyasarpadi Co-operative
Industrial Estate,
Vyasarpadi, Chennai - 600039.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st respondent Government to pass orders with regard to the industrial dispute raised by the petitioner covered by the conciliation failure report bearing Ref.Na.Ka.No.AA/183/2020 dated 04.12.2020 under Section 10(1) of the Industrial Disputes Act expeditiously and within such time as stipulated by this Court.

For Petitioner	:	Mr.R.Gokulraj
For R1 & 2	:	Mr.K.V.Sajeev Kumar Government Counsel
For R3	:	Mr.A.Muthupandian



ORDER

The limited prayer sought for in the present writ petition is for a direction to the first respondent to make a reference on the conciliation failure report passed by the second respondent herein.

2. It is the case of the petitioner that they had raised an industrial dispute touching upon a charter of demands and after conciliation, the second respondent herein had submitted a failure report dated 04.12.2020 under Section 12(4) of the Industrial Disputes Act to the first respondent herein. Since the first respondent has not taken any further decision on the failure report of the second respondent, the present writ petition has been filed.

3. Under Section 12(5) of the Industrial Disputes Act, whenever a failure report under Section 12(4) is received, there is a duty cast on the appropriate Government to either make a reference to the concerned Labour Court/Tribunal or National Tribunal or in the alternative, when the Government is of the view that no such reference is required, it shall record and communicate to the parties concerned the reasons for refusing to refer the matter.

4. In the present case, the petitioner would submit that the Government has neither made a reference nor has refused to make a reference. As such, the non-consideration will amount to violation of Section 12(5) of the Act.

5. In this background, it would be appropriate to direct the first respondent herein to comply with the requirements of Section 12(5) of the Act within a stipulated time.

6. In the light of the above observation, there shall be a direction to the first respondent herein to take further course of action on the failure report dated 04.12.2020 issued by the second respondent, in accordance with Section 12(5) of the Industrial Disputes Act, as expeditiously as possible, in any event, within a period of 12 weeks from the date of receipt of a copy of this order.

7. The writ petition stands disposed of, accordingly. No costs.

Sd/-
Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar



hvk

To

WEB COPY

1. The Secretary,
The Government of Tamil Nadu,
Department of Labour and Employment,
Fort St. George, Chennai - 600009.
 2. The Deputy Commissioner of Labour-I,
Kuralagam, Chennai - 600108.
- +1cc to the Government Pleader Sr No.39122

W.P.No.14470 of 2021

JPL (CO)
PR (25/08/2021)