



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.17034 of 2021

and

WMP.No.18057 of 2021

The Management of
Telema Electronic (India) Pvt., Ltd.,
30, 31 Electronic Estate,
Suramangalam,
Salem - 636 004.

... Petitioner

Versus

1. The Inspector of Police
Suramangalam Police Station,
Suramangalam,
Salem - 636 005.
2. Salem District General Labour Union (CITU)
Rep. by its Secretary,
VPChinthan Ninaivagam,
39E, V.P.C. Street,
Cinema Nagar,
Salem - 636 009.
3. Talem Desiya Thozhilalar Sangam, (INTUC)
No.52, Dr. Subbarayan Road,
Salem - 636 006.

... Respondents

PRAYER: The Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the Inspector of Police, Suramangalam Police Station, Suramangalam, Salem - 636005, the 1st respondent herein to provide police protection to men and machinery in petitioner's factory at No.30, 31, Electronic Estate, Suramangalam, Salem - 636005 by removing the striking workmen who are members of Salem District General Labour Union (CITU), the 2nd respondent and Talema Desiya Thozhilalar Sangam, (INTUC), the 3rd Respondent, who stay inside the premises beyond the shift hours.

For Petitioner : M/S. M.R.Raghavan

For Respondent : Mr.A.Damodharan
Government Advocate (Crl.side)
for R1



ORDER

The petitioner, Telema Electronic Private Limited, has filed this Writ Petition seeking writ of mandamus for removal of the members of the 2nd and 3rd respondent unions, who are remaining in the factory beyond shift hours unauthorisedly.

2. The contention of the petitioner is that there is some wage dispute between the employees and the petitioner's factory. The previous wage settlement expired during February 2020. Simultaneously, they were about to initiate discussions with regard to wages and other matters. Unfortunately, at that point of time, the situation of corona set in and hence, it had become impossible for both the management and workmen to have any discussion in this regard. At that time, the factory could not function due to lock-down and various other Orders of the Government. During May 2020, the factory was permitted to function with 50% of the workers and subsequently, from June 2020, the factory was permitted to function in full. During February 2021, discussions with regard to wage revision had taken place. During the discussions, a proposal was initiated by the management, which was accepted by 5 unions out of 7 unions and the remaining two unions, i.e. the respondents 2 and 3 herein have not accepted the same and labour dispute has been initiated. This being so, during May 2021, the factory came to halt due to second wave of pandemic. Thereafter, the petitioner's factory was permitted to function and management on 04.08.2021 called upon the unions and suggested that further increase announced by the management could be accepted by them. The management made it clear that further burden would jeopardize the survival of the industry and consequently affect the workmen at large. When, such wage revision dispute remained at the discussion level, the employees belonging to the respondents 2 and 3 had indulged in strike on 04.08.2021 from 2.15 p.m., without any notice, which is contrary to law. Further, they had indulged in stay-in-strike, even after the shift hours and continued to stay within the factory squatting in the premises. Since any amount of persuasion would not make them leave the premises beyond the shift hours, the management informed the same to the Assistant Commissioner of Police and Assistant Labour Commissioner. On 06.08.2021, the Assistant Commissioner of Labour had discussion with the Unions as well as the Management and advised the workers to desist from stay-in-strike. Thereafter, he informed that further discussion will be held on 13.08.2021. In the mean time, on 09.08.2021, the employees who reported for the first shift, more particularly, the employees attached to the 2nd and 3rd respondents, indulged in stay-in-strike and also resorted to fast unto death. Coming to know of that the senior officials of the company requested them not to indulge in such practices and persuaded them to attend duties and to sort out the differences in a peaceful manner by holding negotiations before the Assistant Commissioner of Labour, which is stated



to be held on 13.08.2021. The 2nd and 3rd respondent union's members were not inclined to listen such a request made by the management and further escalated their strike. Moreover, three or four workmen swooned because of fasting and they were rushed to the hospital for mediate treatment. The petitioner apprehends that at any point of time there may be violence, which may cause damage to the men and machineries. The petitioner made a representation to the respondent police on 09.08.2021 informing all these facts and also sought police protection to protect the men and machinery and to remove the workmen, who are staying inside. But, no action taken. Hence the present petition.

3. Notice to R2 and R3 not necessary in view of the limited prayer for police protection coming with R1. Both counsel for the petitioner and the learned Government Advocate (crl. side) appearing for the first respondent agreed for final disposal of the writ.

4. The learned counsel for the petitioner would submit that out of 7 unions, except two unions, other unions accepted the proposal of the petitioner. In some substance, the labour union have got the right to strike, but not within the factory premises. When the negotiations is pending before the labour department, indulging in strike is illegal. The learned counsel has relied upon a judgment of this Court in the case of Chelpark Company Limited, /vs/ The Commissioner of Police, Madras and others reported in 1968 MLJ 458, to support his contention. He would further submit that in a similar circumstances, this Court in W.P.No.24401 of 2018 dated 19.09.2018 directed the respondent police to provide police protection to the petitioner when one of the union had indulged in strike and directed the said union to have their protest 100 metres away from the main gate of the factory.

5. The learned Government Advocate (crl. side) appearing for the first respondent would submit that the respondent police has visited the factory and found that the members of the 2nd and 3rd respondents union, are indulging in stay-in-strike during the shift hours and thereafter, they are leaving the factory and not as projected by the petitioner. He would further submit that already negotiation is pending before the official of the labour department. The respondent police will co-operate and it is for the petitioner and the respondents 2^d and 3 to resolve the issue before the Labour Welfare Officer.

6. I have considered the submissions and perused the materials available on records carefully.

7. Considering the submissions and on a perusal of the records, it is seen that the situation seems to be volatile and at any time there might be an eruption and chance of law and order problem.



8. It is gainsaid to extract the following, reported in 1968 MLJ 458, in the case of Chelpark Company Limited /vs/ the Commissioner of Police, Madras and others.

9. In view of the same, the 2nd and 3rd respondents are directed not to conduct, "stay-in-strike" after their shift time, or any form of protest within 100 meters of the factory premises. The striking employees to participate in the Labour Welfare Officer conciliation proceedings, which is in progress. In the event of any proposal of dharna or strike, the same should be carried out 100 metres away from the factory premises without giving any disturbance to the persons to have ingress and egress, without causing any damages to the men and materials and the free functioning of the factory. The 1st respondent can direct the striking workmen squatting within the factory premises after working hours to disperse and remove them from the factory premises, should ensure peaceful and normal functioning of the factory continuously.

10. With the above direction the Writ Petition is disposed. No costs. Consequently, connected miscellaneous petition is closed.

mrp

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police
Suramangalam Police Station,
Suramangalam,
Salem - 636 005.

2. The Public Prosecutor,
High Court, Madras.

+ 2 ccs to M/s. M.R. Raghavan, Advocate Sr.41585

W.P.No.17034 of 2021

LN(CO)
EU 25.8.2021