

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14926 of 2020
and W.M.P.Nos.18543 and 18545 of 2020

T.Govindaraj

.. Petitioner

Vs.

1. The Principal Secretary to Government,
Handloom, Handicrafts, Textile and
Khadi Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

2. The Director of Handlooms and
Textiles/Chairman,
Tender Acceptance Committee,
Kuralagam, 11th Floor,
Chennai-600 001.

.. Respondents

* * *

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to constitute a Monitoring Committee consisting of high level officials of the Hand Loom Department along with qualified experts in the field of Textile Technology, preferably from Anna University, a nominee from SITRA, a nominee from the Central Government Textile Committee, having branch at Coimbatore or Tiruppur, who are experts in testing the yarn, another nominee from National Handloom Development Corporation Limited and representatives of various Weavers' Societies to examine the quality of yarn to be supplied to the weavers' societies by the respective suppliers, on par with the tested yarn samples at the time of issuing supply orders based on tender contract, to frame guidelines for such testing of the quality of yarns including CCTV coverage of such testing, by considering the petitioner's representation dated 17.09.2020.

* * *

For Petitioner :Mr.P.Wilson, Senior Counsel
Mr.R.Neelakandan

For Respondents :Mr.Vijay Narayan, Advocate General
for Mr.V.Shanmugasundar,
Special Government Pleader

O R D E R

Clothes make the man, which in Tamil can be said @Ms; ghjp Mil ghjp@/ Though it is said no one can judge a book by its cover, still people will judge others, according to the way they dress. History of clothing in the India can be traced to the Indus Valley Civilization or earlier and people of that period know weaving. The Ancient Kings have great respect for Artisans, which list includes Weavers. The condition of the Weavers in recent years speaks volumes. Understanding the difficulties of a set of Weavers, the Tamil Nadu Government introduced a scheme in the year 1983 called "Supply of Cost-free Sarees and Dhoties to the Poor People" (hereinafter referred to as "the Scheme") living in the State during Pongal Festival every year. The twin objects of the Scheme are to provide continuous employment and income to the Hand-loom Weavers (and subsequently, Power-loom Weavers also) and to supply free clothes to the poor public in the State. The said Scheme is being continued till date and it is one of the pioneer schemes of the State Government. Similarly, the school going children have been provided with cost-free uniforms by the State Government. The petitioner questioned the quality of raw materials supplied to the production of those clothes supplied for the scheme and sought a direction to the first respondent to a Monitoring Committee consisting of high level officials of the Hand Loom Department along with qualified experts in the field of Textile Technology, as has been requested in his representation dated 17.09.2020 made to the respondents.

2. The case of the petitioner, in a nutshell, is as follows :

2.1. The petitioner is the President of E.H.194, Muthur Power-loom Weavers' Co-operative Society and he claimed to be the former Chairman of Federation of Tamil Nadu Power-loom Weavers' Co-operative Societies, which works for the welfare of the Weavers from the year 1998, as thousands of members of the Co-operative Societies, who are all Weavers, have been eking out their livelihood only from the income derived from weaving.

2.2. The petitioner stated that the members of the Co-operative Societies have been engaged for the supply of clothes for the Scheme. The second respondent, as per the directions of the first respondent, has been monitoring the Scheme and for the year Pongal 2021, for the Scheme, the second respondent floated tenders for the supply of yarn on 12.07.2020 and issued Purchased Orders on 25.08.2020 to seven private suppliers, who are also doing dying and other connected works. The yarn supplied by them have been given to the Weavers, who in turn, will give back the finished products to their respective Co-operative Societies, for which, they

have been paid wages and subsequently, bonus, etc. The officials working under the second respondent at the district level are in-charge of receiving the yarn from the suppliers.

2.3. The allegation of the petitioner is that the substandard raw materials for the production of sarees and dhoties have been supplied by those suppliers and also by the Co-operative Spinning Mills, which caused much inconvenience to the Weavers in their day-to-day productivity and also ultimately affected the quality of the finished products. The officials of the Handloom Department have been rejecting such finished products alleging poor quality. When the officials have been checking the finished product, they have engaged only daily wages/contract basis staff for checking the quality of raw materials, who, in collusion with the suppliers, have not been taking even the samples to the Testing Centres properly as per the guidelines, but obtaining fabricated/fake certificates, as the quality of the raw-material, i.e., yarn is good. When the same yarn are sent for testing to the Tiruppur Textile Committee, it was found that the same are substandard.

2.4. The petitioner further alleged that the suppliers have also been indulging in so many activities, which are not in accordance with the guidelines and procedures and the standard procedure for checking the yarn have not been followed by the officials, which resulted in the procurement of poor quality raw materials. The suppliers have been bringing good quality yarn as samples for testing to the South India Textile Research Association (SITRA), which has expertise to evaluate quality of cotton, man-made fibers, processed material, yarns and fabrics, but not supplying the same quality products to the Co-operative Societies. Because of the poor quality of raw material, the finished products are also poor in quality, due to which huge quantum of sarees and dhoties have been piled up in the premises of so many Co-operative Societies year-after-year, which also cannot be sold in the open market. The action of the officials have been causing huge loss to the Co-operative Societies, which ultimately affected the income of the Weavers and even the employees of the Co-operative Societies could not be paid full wages.

2.5. The petitioner further alleged that the Muthur Power-loom Weavers Co-operative Society, to which, he is the President, has also been suffering financial loss for nearly a decade due to those problems.

2.6. It is stated that in addition to the mechanism to have checking of the finished product, the authorities should implement the mechanism to ensure the supply of good quality raw material, from which only good quality of finished product could be made. The petitioner further claims that since the issue involves State's exchequer with respect to the Weavers Co-operative movement, he made a complaint to the Department of Vigilance and Anti Corruption on 14.11.2019 and since there

is no action taken on his complaint, he filed Crl.O.P.No.34475 of 2019 seeking a direction to the respondents therein to register the said complaint and this Court by order dated 02.01.2020 directed the police authorities to investigate into the allegations and pass appropriate orders within three months.

2.7. In these circumstances, the petitioner made a representation on 17.09.2020 seeking to constitute a high level Monitoring Committee with qualified experts to check the quality of yarn being supplied to the Weavers Societies, including the petitioner's society. The petitioner has also submitted a representation on 15.09.2020 seeking the respondents to ensure the supply of high quality yarn, as per the tender norms. However, according to the petitioner, taking revenge over the submission such representation and complaint, the second respondent, with an ill-motive, by an order dated 09.10.2020, blacklisted the Muthur Power-loom Weavers' Co-operative Society for the alleged occurrence, which took place two years ago citing untenable reasons.

2.8. Alleging that the second respondent and other officials of the Handloom Department have attempting to make payment for the supply of 50% of the substandard quality of yarn, which were distributed to the Co-operative Societies, from whom, quality letters were forcibly obtained, and if such payments are made, it will cause loss to the exchequer and also seeking to constitute a Monitoring Committee consisting of high level officials of the Handloom Department along with experts, the petitioner is before this Court.

3. The second respondent filed a counter-affidavit dated 20.11.2020 resisting the prayer. It is submitted that the object of the scheme of cost-free distribution of sarees and dhoties to the poor people during Pongal Festival every year was commenced in the year 1983 to provide continuous employment and income to the hand-loom Weavers, which provides continuous employment to around 13000 hand-loom Weavers and 54000 power-loom Weavers, who are all members of the Co-operative Societies. G.O.Ms.No.54, Handloom, Handicrafts, Textile and Khadi Department, dated 24.06.2020 was issued to continue the Scheme for Pongal, 2021 and 399 Co-operative Societies were given orders for the said work in order to implement the Scheme. A part of yarn supply is made by the Co-operative Spinning Mills and the remaining is purchased through open tender from private players.

3.1. The second respondent stated that the tender notification was published on 02.07.2020 by the Joint Director (Uniforms)/Tender Inviting Authority following the Tamil Nadu Tender Transparency Act and rules made thereunder for the Scheme. The Purchase Orders were issued to the eligible tenderers on 25.08.2020. The tenderers were to supply yarn to the Government Yarn Units situated at Erode, Thiruchengode, Coimbatore, Virudhunagar and Kancheepuram. The second

respondent issued the proceedings in Rc.No.31758/2019/P1 appointing the officials in the cadre of Textile Control Officer/Senior Technical Assistants/Junior Technical Assistants in-charge of those units and those officials are technically qualified and expertise to identify the quality of yarn.

3.2. The second respondent claimed that after following due procedure for receiving the supply and quality checking, the yarn would be accepted and if the quality is not good, the supply would be treated as rejected and the other bidders would be asked to supply the said quantity. The second respondent submitted that the Societies, to increase the production of sarees and dhoties, sometimes indulge in malpractice of reducing the length and width and also the threads/inch of the sarees and dhoties and those defective products along would be rejected by the officials, which were sole in the open market by auction and some income is generated by the Societies.

3.3. The second respondent submitted that the Government, in fact, introduced various schemes, such as 6% interest subsidy scheme, free electricity supply and assured market, etc. for the well-being of the Weavers of the Co-operative Societies and loss, if any, incurred by the Societies is due to the corrupt practices and mismanagement by the President and Directors of those Societies.

3.4. It is submitted that excepting Muthur Society, to which the petitioner is the President, no other Society complained about the quality of yarn and the petitioner approached this Court with some ulterior motive.

4. Mr.P.Wilson, learned Senior Counsel appearing on behalf of the petitioner, submitted that when the officials of the respondents have a mechanism to test the manufactured product, called Procurement Monitoring Committee, they failed to implement any such proper mechanism to assess the quality of the raw material and its usage at every stage, which resulted in substandard sarees and dhoties being distributed to the poor public and also caused loss to the Co-operative Societies, as the finished products have been rejected as poor quality products, when the raw material supplied by the officials were used by the Weavers. The learned Senior Counsel emphasised that for the Scheme involving Rs.250/- Crores of public money being spent by the Government, it is imperative on the part of the officials to have effective control over the raw materials, that is, yarn, supplied to the Weavers, for which, constitution of an Expert Committee is necessary. The learned Senior Counsel also contended that there shall be CCTV coverage during the checking of the quality of yarn in Government Yarn Godowns.

5. Mr.Vijay Narayan, learned Advocate General assisted by Mr.V.Shanmugasundar, learned Special Government Pleader,

denying the allegations made by the petitioner, narrated the past performance of the Muthur Society and submitted that the Society, in which the petitioner is the President, was blacklisted by the officials of the second respondent for indulging in supply of recycled products, since even after affording sufficient opportunity to give explanation, no plausible explanation was forthcoming. Suppressing the said fact with an ulterior motive and to threaten and usurp money from the suppliers, the petitioner has filed this writ petition. The learned Advocate General also submitted that the petitioner sought for allotment of more work under the scheme for supply of free uniform for the academic year 2020-2021, over and above its production capacity, which was not accepted by the officials, which is also the motive for filing this writ petition. The learned Advocate General narrated the checks and balances, which are in place to ensure the quality of supply of raw material, i.e., yarn, at every stage and due to malpractice of some of the Societies like that of the petitioner, the Weavers and the Government are blamed by the public for the supply of substandard quality of sarees and dhoties.

6. Admittedly, the petitioner himself claimed in the petition, for the alleged occurrence that took place two years ago, Muthur Society was blacklisted on 09.10.2020. The second respondent claimed that for the supply of recycled dhoties, on 30.01.2020 itself an explanation was sought for from the President and Board of Directors of the Muthur Power-loom Weavers' Co-operative Society and as there was no explanation, they had been blacklisted. Therefore, the petitioner cannot claim that the said action is an offshoot of the complaint and representation given by him to the DVAC and the respondents.

7. Before delving into the matter further, it is relevant to note that the second respondent in paragraph 11 of the counter-affidavit stated that after receipt of yarn at the Yarn Units, the officer in-charge would check the details of the Supplier, Yarn and Quantity, Time of receipt, Transport vehicle registration number, etc., and record the details in the Inward Register. Further, the weight and Physical appearance quality is also verified and ensured by the Yarn Unit in-charge and thereafter, the procedure of taking sample for quality checking is being carried out by the Yarn Unit in-charge, for which, two samples at random are taken from each lot of 2 to 6 Metric Tonnes, which are recorded in the sample register, of which, one is sent to the Testing Labs, while the other is stored separately and upon receipt of report, after evaluation and comparison, if all the quality parameters are met with, the supplied lot would be accepted and if any substandard quality is found in the report, the lot would be rejected.

8. The second respondent also stated that the task of quality testing is carried out by the representative of Circle Assistant director and Yarn Unit In-charge, both of whom are department officials and no contract basis or daily wages employees are engaged in the said work. It is also stated that the testing is done only at the reputed testing centres, like, Textiles Committees, SITRA, etc., authorized vide proceedings RC 12742/2020/T, dated 25.08.2020 of the second respondent.

9. Further, regarding the testing of samples of yarn, the second respondent, in paragraph 21 of the counter-affidavit, has stated as follows:

"21. The process of taking yarn samples for testing of yarn received at the yarn unit is being carried out by the team of representative of circle Assistant Director and Yarn Unit incharge. Also a counter sample is being taken and stored until completion of the scheme. Hence, it is obvious that proper procedure is being followed for testing of yarn. Contentions of the petitioner in this regard is incorrect."

The above submissions of the second respondent, which have been made in the counter-affidavit, are recorded.

10. From the above, this Court is of the view that there is some force in the contention of the second respondent that when the yarn supplied is fulfilled the quality standards as per the specifications, there is no necessity to call for the sales documents of the manufacturing and dying units of the tenderers.

11. It is no doubt true that the required procedures and guidelines are in place to have control over the quality of the supply of yarn supplied by the private players and the Co-operative Spinning Mills. It is for the respondents to implement those procedures and guidelines effectively and scrupulously in letter and spirit. The respondents should not give any room to doubt the quality of the raw materials supplied by the tenderers and they have to ensure the quality of yarn supplied to the Weavers for one of the pioneer schemes implemented by the State Government from the year 1983 continuously, which, as claimed by the respondents, has given continuous employment to around 67000 hand-loom and power-loom Weavers and also provided free sarees and dhoties to the poor people in the State.

12. Though there is no embargo on the officials to take action against the erring Co-operative Societies, the innocent Weavers should not be punished for no fault of theirs. At the same time, the Weavers and Co-operative Societies also should

remember that they should not indulge in abuse or using the raw materials given to them for some other purpose and use substandard yarn to achieve temporary gain, which would tantamount to burning their own fingers. This will also defeat the very object of the Co-operative movement, which has given lot of benefit to each field, where, Co-operative Societies were formed for the welfare of the members.

13. It is to be reiterated that the officials should ensure that whatever that has been stated in the counter-affidavit has to be followed scrupulously without any deviation and the Scheme should be implemented in its letter and spirit for the benefit of the Weavers and the poor public. It is the responsibility of the officials of the Handloom Department to ensure that the quality requirements of yarn for the production of the sarees and dhoties and also the Uniform supplied to the public and the students are complied with as per the guidelines without any deviation.

14. With the above observations and directions, this writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Handloom, Handicrafts, Textile and
Khadi Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

2. The Director of Handlooms and
Textiles/Chairman,
Tender Acceptance Committee,
Kuralagam, 11th Floor,
Chennai-600 001.

+1cc to Mr.R.Neelakandan, Advocate SR.1184

W.P.No.14926 of 2020

BS (CO)
CB(02/02/2021)