

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.02.2021

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.18977 of 2020

&

W.M.P.No.23529 of 2020

Puducherry Project Implementation Agency
Employees Union (Reg.No.1852/TRU/2019)
No.7-B, Moovendhar Veedhi
Mullai Nagar,
Urulaiyanpettai, Pudherry-5
rep. By
its Secretary Mr.Sivamadan ... Petitioner

Vs.

1.The Chief Secretary-cum-Chairman
Project Implementation Agency
Government of Puducherry
5th floor, 100 feet road,
P.K.C.Educational Complex
Anna Nagar, Puducherry-605005

2.The Project Director
Project Implementation Agency
Government of Puducherry
5th floor, 100 feet road
P.K.C.Educational Complex,
Anna Nagar, Puducherry-605 005

3. The Labour Officer (Conciliation)
Puducherry .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to maintain status quo ante with regard to the employment of the members of the Petitioner Union, whose name are given in the List of Members filed in this writ petition as existed prior to the dispute on which conciliation proceedings were initiated by the 3rd respondent in proceedings No.104/LO(C)/ AIL/2020 dated 15.10.2020.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.G.Djearany,
Govt.Plodr(Puducherry)

O R D E R

The present writ petition has been filed for a direction to the respondents 1 and 2 to maintain status quo ante with regard to employment of the members of the petitioner's union during the pendency of the conciliation proceedings.

2. Admittedly the conciliation proceedings were initiated from 15.10.2020. The matter was seized of by the Conciliation Officer and discussion was going on . On 15.10.2020, Conciliation Officer adjourned the matter to 20.10.2020 and thereafter to 30.10.2020. Whereas the management has disengaged the workers and instructed them not to report to duty with effect from 30.10.2020. Such act is contrary to the Sec.9 A of the Industrial Disputes Act, 1947(hereinafter referred to as the 'Act')

3. Considering the same, the Conciliation Officer in his proceedings dated 06.11.2020 has directed the management to maintain "Status Quo Ante" prior to the dispute and make an amicable settlement in this regard and posted for further negotiation on 11.11.2020. In spite of the same the management has continued to disengage the workers during the pendency of the conciliation proceedings. The non obstante clause under Sec.9-A of the Act makes issuance of notice mandatory to effect change in service conditions of workers and also imposes a prohibition to effect the change in service conditions within 21 days of Notice. No material has been produced before this Court to show that the mandatory procedure was followed. Lest, can there be 21 days notice between 15.10.2020 and 30.10.2020. Besides all the mandatory requirement, the matter has been seized of by the Conciliation Officer and anything done without placing the materials before the authority will lead us to draw an adverse inference that the management is attempting to dilute the conciliatory process and adopting unfair labour practices. Since the conciliation is still under process, it is incumbent upon the management to maintain "Status Quo Ante" as directed by the Conciliation Officer.

4. Accordingly, a direction is given to the respondents 1 and 2 to maintain "Status Quo Ante" prior to the dispute till the conclusion of the conciliation proceedings.

Writ petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Secretary-cum-Chairman
Project Implementation Agency
Government of Puducherry
5th floor, 100 feet road,
P.K.C.Educational Complex
Anna Nagar, Puducherry-605005

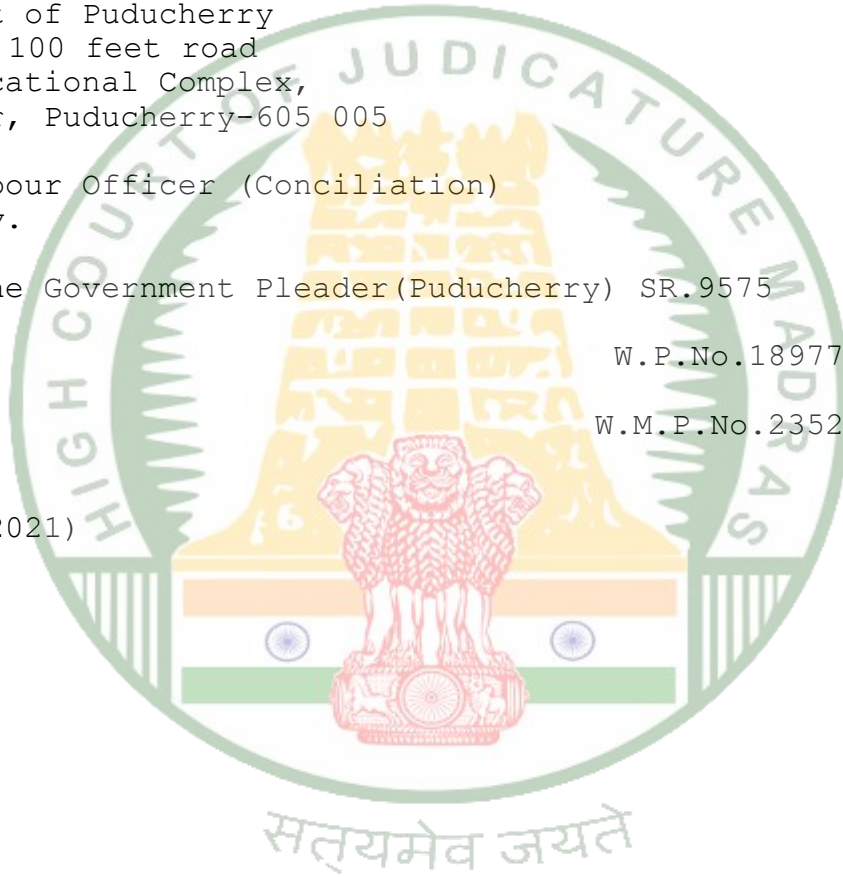
2.The Project Director
Project Implementation Agency
Government of Puducherry
5th floor, 100 feet road
P.K.C.Educational Complex,
Anna Nagar, Puducherry-605 005

3. The Labour Officer (Conciliation)
Puducherry.

+1cc to the Government Pleader(Puducherry) SR.9575

W.P.No.18977 of 2020
&
W.M.P.No.23529 of 2020

SSV(CO)
CB(23/03/2021)



WEB COPY