

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.20452 of 2020

and

W.M.P.No.25228 of 2020

Workers of M/s. PPG Asian Paints Private Limited
Through United Labour Federation
(Regn No.2657/CNI)
Rep. by its Secretary,
No.149, IV Floor, C.J. Complex,
Thambu Chetty Street,
Chennai - 600 001.

... Petitioner

vs.

1. The Deputy Commissioner of Labour (Conciliation-1)
Irungattukottai, Sriperumbudur,
Kancheepuram.
2. The Management of PPG Asian Paints Private Limited
Formerly known as Asian PPG Industries Limited,
Rep. by its Managing Director,
Plot No.L10, Phase II, SIPCOT Industrial Park,
Mambakkam (Post), Sriperumbudur,
Kancheepuram - 602 106.
3. Mr.V.Mohan
Enquiry Officer,
C/o. PPG Asian Paints Private Limited,
Plot No.L10, Phase II, SIPCOT Industrial Park,
Mambakkam (Post), Sriperumbudur,
Kancheepuram - 602 106.

... Respondents

Prayer:

Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to forthwith commence conciliation proceedings in respect of the industrial dispute raised by the petitioner union on 23.11.2020.

For Petitioner : Mr.V.Prakash (Senior Counsel)
for Mr.S.R.Bubala Chandran

For Respondents : Mr.V.Kathirvelu (for R1)
Special Government Pleader

Mr.S.Ravindran (Senior Counsel)
for Mr.Basheer Ahmed (for R2)

O R D E R

The present writ petition has been filed for a Writ of Mandamus, directing the first respondent to forthwith commence conciliation proceedings in respect of the industrial dispute raised by the petitioner union on 23.11.2020 and pass further orders.

2. Learned Senior Counsel appearing for the petitioner submitted that disciplinary proceedings was initiated against two members, and one was set ex-parte and against the other enquiry is conducted without affording fair opportunity. Hence, objections were made against the enquiry officer. For that purpose, dispute was raised on 23.11.2020 before the first respondent for preparing a panel of enquiry officers and to approach a neutral enquiry officer. Without commencing the conciliation proceedings, the first respondent remained inactive and therefore, the present writ petition.

3. Learned Senior Counsel appearing for the second respondent/management would contend that the first respondent can commence conciliation and it is for the Government to take a decision to refer the dispute raised by the workmen for adjudication. He would rely on the judgment of the Hon'ble Supreme Court in Rahman Industries Private Limited vs. State of U.P., reported in 2016 (1) LLJ 51, wherein paragraph Nos. 3 and 4, reads as follows:-

"3. The grievance of the Appellant is in a very narrow compass. It is pointed out that there is a peremptory direction by the High Court to refer the dispute by the workmen for adjudication, virtually taking away the discretion on the part of the Government to look into the issue as to whether there is referable dispute at all.

4. We find force in the submission made by the learned Counsel. In the scheme of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), it is not as if the Government has to act as a post office by referring each and every petition

received by them. The Government is well within its jurisdiction to see whether there exists a dispute worth referring for adjudication. No doubt, the Government is not entitled to enter a finding on the merits of the case and decline reference. The Government has to satisfy itself, after applying its mind to the relevant factors and satisfy itself to the existence of dispute before taking a decision to refer the same for adjudication. Only in case, on judicial scrutiny, the court finds that the refusal of the Government to make a reference of the dispute is unjustified on irrelevant factors, the court may issue a direction to the Government to make a reference."

4. Taking into consideration the facts and circumstances of the case, a direction is issued to the first respondent to commence conciliation and take appropriate action in accordance with law within a period of two weeks from the date of receipt of a copy of this order. The learned Special Government Pleader is directed to communicate this order to the first respondent.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm

To

The Deputy Commissioner of Labour (Conciliation-1)
Irungattukottai, Sriperumbudur,
Kancheepuram.

+lcc to Mr.S.R.Bubala Chandran, Advocate, S.R.No.1693

+lcc to the Government Pleader, S.R.No.1951

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SSD(CO)
CS/10/02/2021