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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25838 of 2021

and

W.M.P.No.27320 of 2021

All India SC/ST Railway Employees

Association S-1517

Rep. By its Branch Secretary

Mr. J. Suresh Kumar,

Diesel Sheet Mechanical Branch-Tondiarpet,

Chennai Division, Southern Railway,

Chennai- 600 081.

...Petitioner

Vs.

1. The Divisional Railway Manager's Officer

Personnel Branch,

Chennai Division, Southern Railway,

Annexure Buiding, Park Town,

Chennai 3.

2. Mr. N. Shanmugarajan

The Divisional Personnel Officer/MAS,

Chennai Division, Southern Railway,

Chennai.

3. Divisional Mechanical Engineer,

(DIESEL) Southern Railway,

Tondiyarpet, Chennai-81.

4. Mr. A. Gnanasekaran,

(General) Zonal Secretary,

All India SC/ST Railway Employees Association,

South Zone, Ref.No.S-1517,

No.85, Carriage Works,

Ayanavaram, Chennai - 600 023.

5. Mr. G. Vinoth,

Divisional Secretary,

All India SC/ST Railway Employees Association,

South Zone, Ref.No.S-1517,

No.85, Carriage Works,

Ayanavaram, Chennai - 600 023.

...Respondents



Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to call for all the records relating to the impugned order M/M/DSL/226/UNION dated 23.11.2021 issued by the Divisional Mechanical Engineer (Diesel), Southern Railway, Tondiarpet, Chennai 81, the third respondent herein, and quash the same and consequently directing the first, second and third respondents not to seal the Diesel Shed Mechanical Branch, Tondiarpet, Chennai and consequently directing the respondents to consider the petitioner's representation dated 22.11.2021, in accordance with law.

For Petitioner : Mr.S.Senthil Vel

For Respondent R1to R3 : Mr.P.T.Ramkumar
Standing Counsel

For Respondents R4 & R5 : No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, to call for all the records relating to the

impugned order dated 23.11.2021 issued by the third respondent herein, and to quash the same and to consequently direct the respondents 1 to 3 not to seal the Diesel Shed Mechanical Branch, Tondiarpet, Chennai and consequently to direct the respondents to consider the petitioner's representation dated 22.11.2021 in accordance with law.

2.The petitioner's association is functioning within the Diesel Shed Mechanical of which the petitioner has been elected as Branch Secretary continuously three occasions on 17.10.2018, 03.10.2016 and 16.02.2018 and till date is functioning as the Branch Secretary of Diesel Shed Mechanical Branch. In the mean time, the 4th respondent, Zonal Secretary in the Association, stating himself as General Secretary using his influence appointed his son / 5th respondent as Divisional Secretary without any election and continuously creating unnecessary problems in the association. While being so, the 2nd respondent had issued order dated 29.10.2021 through Whatsapp stating that the 1st respondent had received a letter from 3rd respondent dated 20.07.2021 that decisions has been taken with regard to the withdrawal of ineffective, non-functional and ill-legal activities of certain branches and therefore, to seal the said office accommodation. On receipt of the order dated 29.10.2021, the petitioner approached the 4th respondent and enquired about the same, however, the 4th respondent demanded money to recall



the said order and the same was not acceded to by the petitioner. Thereafter, the 3rd respondent issued order of surrender dated 23.11.2021 for the petitioner's branch on or before 03.12.2021. Challenging the same, this writ petition is filed.

3. The learned counsel appearing for the petitioner submits that as per the Bye-law, the General Secretary has to issue showcase notice to seal the branches, which was not done in accordance with law and also no opportunity of hearing was given to the petitioner and 4th and 5th respondents have sent letter to the 1st and 2nd respondents to seal 11 branches without any valid reason which will put the member of the petitioner's branch to great loss. He further submitted that Dr.B.R.Ambedkar Birthday is nearing, hence, it would suffice, if this Court issues direction to the respondents to provide a time period of 20 days from the date of receipt of a copy of this order to vacate the branch in order to celebrate the birthday of Dr.B.R.Ambedkar.

4. The learned counsel appearing for the respondents 1 to 3 submitted that All India Scheduled Castes & Scheduled Tribes Railway Employees Association-South Zonal Executive Committee:Chennai vide its order dated 20.07.2021 issued order for Withdrawal of Branch Executive Committee approval of AISCTREA of Chennai Division of 11 branches among which the petitioner's branch is also included. He further submitted that without approval from the Zonal Committee of AISCTREA and Railway Administration, they were occupying the office which shows the misuse committed by the Exiting office bearers and though the branch committee tenure came to an end before 2020 and till date no steps were taken to form a new body and the petitioner branch and other 10 branches were enjoying all the facilities which has been granted by Ministry of Railways as well as Southern Railway. Therefore, the DRM/MAS have taken necessary action in this regard to seal the above said 11 branches and they have the power to seal the branches which are occupied illegally. However, he fairly conceded that the petitioner branch may be granted time to vacate before 15.12.2021.

5. Heard the arguments advanced on either side.

6. In view of the fair stand of the learned counsel on either side, without advertting to the factual aspects and merits, without interfering with the impugned order passed by the 3rd respondent, this writ petition is disposed of and the petitioner is directed to vacate the office premises on or before 15.12.2021.



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7. Accordingly, this Writ petition is disposed of. No costs.
Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

skt

To:

1. The Divisional Railway Manager's Officer
Personnel Branch,
Chennai Division, Southern Railway,
Annexure Buiding, Park Town,
Chennai 3.
2. The Divisional Mechanical Engineer,
(DIESEL) Southern Railway,
Tondiyarpeth, Chennai-81.

+1cc to Mr.S.Senthil Vel, Advocate SR.No.63609

+1cc to Mr.P.T.Ramkumar, Advocate SR.No.63854

W.P.No.25838 of 2021
and
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GJ(CO)
GMY(28/01/2022)