



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 20330 of 2014

and

M.P. (MD) No. 1 of 2014

WEB COPY

Kaviyan Construction Private Limited,
represented by its Director,
Mr.C.Deenathayalapandian,
'Kaviyan' 184, Vaigai Colony (East)
Anna Nagar,
Madurai - 625 020.

... Petitioner

-VS-

1.The Commissioner of Labour,
No.249, DMS Campus,
Teynampet,
Chennai 600 018.

2.The Deputy Labour Commissioner,
1/5-C Rathinasamy Nadar Street,
Visalakshipuram,
Madurai 625 014.

3.The Ministry of Labour,
Government of India,
New Delhi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to impugned order letter No.L1/49775/2014 dated 25.11.2014 on the file of the First Respondent and quash the same as illegal and unconstitutional and consequently, direct the Respondents not to insist on the Petitioner registering itself under the Contract Labour (Regulation and Abolition) Act, 1970.

For Petitioner : Mr. V.Ramakrishnan
Senior Counsel
for Mr. K.Saravanan

For Respondents : Mr. B.Saravanan
Counsel appearing for the Government



O R D E R
(through Video Conference)

Heard Mr. V.Ramakrishnan, Learned Senior Counsel appearing for the Petitioner and Mr. B.Saravanan, Learned Counsel representing the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is aggrieved by the Notice No. L1/49775/2014 dated 25.11.2014 issued by the First Respondent requiring the Petitioner to implement the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as 'the Contract Labour Act' for short).

3. This Court during the earlier hearing on 23.06.2021 has passed the following self-explanatory order:-

" Mr. V. Ramakrishnan, Learned Senior Counsel appearing for the Petitioner submits that the establishment of the Petitioner has already been registered under the provisions of the Building and other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996. It is also stated that the Petitioner does not engage contract labour and a register of building workers employed by the Petitioner is maintained in terms of Rule 240 of the Tamil Nadu Buildings and other Construction Workers (Regulation of Employment and Conditions of Service) Rule, 2006.

2. The grievance sought to be ventilated in this Writ Petition is that the impugned order dated 25.11.2014 passed by the Respondents compelling the establishment of the Petitioner to be registered under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, is untenable as its provisions are inconsistent with the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, and in any event, the Petitioner has not engaged any contract labour through any contractor for its business activities.

3. It cannot be gainsaid the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, would be applicable to an establishment only if the employer engages contract labour through contractor for its business activities. Since the Petitioner contends that it has not engaged any contract labour through contractor for its business activities and that the register has been maintained in respect of the building workers employed by the Petitioner for its establishment, it



shall be incumbent upon the Respondents to conduct spot inspection of the premises to ascertain how the business activities of the Petitioner is carried out and file a report as to whether the service of contract labour through contractor is engaged and whether the register of building workers directly employed by the Petitioner is properly maintained as claimed, after giving due notice to the concerned persons in that regard.

Post the matter on 15.07.2021."

In furtherance to the aforesaid order, an Affidavit from Dr. Atul Anand, Commissioner of Labour has been filed through e-mail in which it has been stated that on inspection of the establishment of the Petitioner on 20.07.2021 by Joint Direction (BOCW), Madurai, it was found on perusal of the relevant registers maintained that the Petitioner had engaged workers directly and not through contractors and that the construction work was completed in the year 2016 itself. Though the parties are at variance in their respective positions on the applicability of the Contract Labour Act to the establishment of the Petitioner, it is evident from the aforesaid inspection report that till date, the Petitioner has not employed any contract labour, meaning thereby that the necessity to determine whether the Contract Labour Act applies to the establishment of the Petitioner, does not require to be considered at this stage. However, the said contention is left open to be decided, if it arises for consideration later.

In fine, the Writ Petition is disposed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AE)

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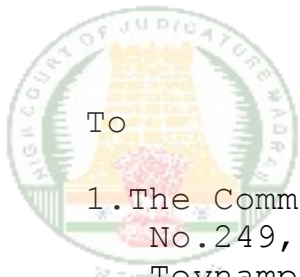
/ /2021

Sub Assistant Registrar (CS)

Ns/dm

Note: (i) Issue order copy by 15.09.2021.

(ii) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Commissioner of Labour,
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2.The Deputy Labour Commissioner,
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3.The Ministry of Labour,
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New Delhi.

+1 CC to M/s.K.SARAVANAN, Advocate (SR-24357[F] dated
29/07/2021)

+1 CC to M/s.SPL GP (SR-24710[F] dated 30/07/2021)

W.P. (MD) No. 20330 of 2014
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