



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 14663 of 2018

S.Shivraj

...Petitioner

-vs-

1. The Joint Commissioner of Labour,
Appellate Authority under the
Tamil Nadu Shops and Establishment Act,
Commissioner of Labour,
DMS Campus, DMS Subway,
Teynampet, Chennai-600 006.

2. Vijaya Hospital,
Represented by its Deputy General Manager,
Old. No. 180, (New No. 434),
N.S.K. Salai, Vadapalani,
Chennai-600 026.

...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent dated 15.02.2018 bearing Na. Ka. No. S2/5455/2018 and the consequential impugned proceedings dated 08.03.2018 vide Na. Ka. No. S2/8901/2018 and quash the same and direct the First Respondent to proceed as per Section 41 of the Tamil Nadu Shops and Establishment Act and take the appeal on record.

For Petitioner : Mr. M.Hariharan

For Mr. S.Raveekumar

For Respondents: Mrs. C.Sangamithirai

Special Government Pleader (For R1)

Mr. Sai Prasad

For M/S. Sai Raj Associates (For R2)

O R D E R

Heard Mr. M.Hariharan, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First Respondent, Mr. Sai Prasad, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. The Petitioner challenges the order dated 08.03.2018 in Na. Ka. No. S2/8901/2018 by which the appeal under Section 41(2) of Tamil Nadu Shops and Establishment Act, 1947 (hereinafter referred to as 'the Act' for short) was refused to be taken on record by the First Respondent on the ground that the Second Respondent, which is an hospital, has been exempted from the provisions of the said Act. The relevant notification in G.O. Ms. No. 1410, Development Department dated 20.03.1948 issued by the Government of Tamil Nadu has been produced, which provides as follows:-

" In exercise of the powers conferred by Section 6 of the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947). His excellency the Governor Madras hereby exempts permanently from all the provisions of the said Act the following classes of establishments namely:-

....

iv) Nursing Homes, hospitals and other institutions for the treatment of care of the sick, the interim the destitute or the mentally unfit."

Though it is contended that the notification for exemption has not been produced before the impugned order was passed by the First Respondent, it cannot be disputed that the aforesaid notification for exemption was in existence at that time. In such circumstances, there does not appear to be any infirmity in the decision-making process of the First Respondent while passing the impugned Order in Na. Ka. No. S2/5455/2018 dated 15.02.2018 and the consequential impugned Proceedings in Na. Ka. No. S2/8901/2018 dated 08.03.2018, requiring interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution. Though obvious, it is made clear that no view has been expressed by this Court on the correctness or otherwise of the merits of the controversy involved in the matter.

In the result, the Writ Petition is dismissed with the aforesaid observations. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Joint Commissioner of Labour,
Appellate Authority under the
Tamil Nadu Shops and Establishment Act,
Commissioner of Labour,
DMS Campus, DMS Subway,
Teynampet, Chennai-600 006.

+lcc to the Government Pleader, S.R.No.25081

W.P. No. 14663 of 2018

PL(CO)
KKV/15/06/2022