



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**DATED : 30.01.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**W.P No.2040 of 2023**

M/s.Bharatiya Port & Dock  
Employees Union  
Rep. by its General Secretary  
Having their Office at No.5  
Behind the Pension Section  
Chennai Port Authority  
Chennai-600 001.

..Petitioner

.Vs.

1. The Chairperson  
Chennai Port Authority  
Chennai-600 001.
2. The Secretary Shipping  
Ministry of Ports, Shipping and Waterways  
Parivahan Bhavan No.1  
Parliament Street  
New Delhi-110 001.
3. The Deputy Chief Labour Commissioner  
Office of the Chief Labour Commissioner (Central)  
5th Floor, A Wing, Shastri Bhawan No.26  
Haddows Road  
Chennai 600 006.

.. Respondents



Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to kindly consider petitioner Union's request for "Secret Ballot" and await the reconciliation proceedings before the 3rd respondent for proceedings further on the Check Off process.

For Petitioner : Mr.S.S.Rajesh

For Respondents : Mr.R.Karthikeyan  
Standing Counsel

### **ORDER**

This writ petition has been filed for the issue of a writ of mandamus for a direction to the 1st respondent to consider the request made by the petitioner Union for "Secret Ballot" and to await the reconciliation proceedings pending before the 3rd respondent before proceeding further with the Check Off process.

2.The case of the petitioner Union is that Check Off system was followed by the Port Trusts across India where the workers/employees must choose their allegiance to a particular Union and through this process, the first two Unions which get the majority will nominate its members as labour Trustee in the 1st respondent Board. The labour Trustees will participate in the negotiations during the determination of the service conditions and while resolving labour issues.



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3.A meeting was called for by the 1st respondent to ascertain the views of the Unions on the procedure to be adopted for identifying the strength of two majority Unions. The meeting was held on 15.11.2022 and a decision was taken to the effect that the system of Secret Ballot will be adopted for appointing the labour Trustees.

4.Subsequently, yet another meeting was held on 18.11.2022 and it was decided to adopt/continue with the Check Off system

5.The petitioner Union raised a dispute before the 3rd respondent insisting for Secret Ballot election. Even before the 3rd respondent took any decision, the 1st respondent was proceeding further to conduct the election through Check Off process. According to the petitioner, the decision taken by the 1st respondent goes against the interest of the Port labourers and that they will not be able to exercise their franchise in a free and fearless manner. Aggrieved by the same, the present writ petition has been filed before this Court.

6.Heard Mr.S.S.Rajesh, learned counsel for the petitioner and Mr.R.Karthikeyan, learned Standing Counsel appearing on behalf of the respondents.



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7. When the matter was taken up for hearing today, the learned Standing Counsel appearing on behalf of the Port Trust submitted the extract from the minutes of the Board meeting held on 16.12.2022. It is seen from the minutes of the meeting that there are totally 14 participating Unions out of which 6 Unions having a total membership strength of 2280 have suggested for Check Off system for determining the membership strength. The rest of the 8 participating Unions having a total membership strength of 1119 suggested for Secret Ballot. Considering the fact that the majority had opted to follow the Check Off system, a decision was taken by the Board that the strength of the Unions for appointing members of the Board will be decided through Check Off system.

8. In the considered view of this Court, the jurisdiction exercised by this Court under Article 226 of the Constitution of India, in matters of this nature is very limited. This Court cannot direct the Port Trust to adopt one method or the other for ascertaining the strength of the Unions. These are decisions taken based on the wish of the majority. It is true that a dispute has been raised before the 3rd respondent in this regard. That by itself will not entitle the petitioner Union to approach this Court and seek for stopping the election till the proceedings are completed by the 3rd respondent. A writ petition cannot be



entertained for the sake of passing interim order when the substantive dispute is pending before an authority. The law on this issue is well settled.

9. In the light of the above discussion, the relief sought for by the petitioner cannot be granted by this Court and this writ petition stands dismissed. The 3rd respondent shall take a decision on the representation made by the petitioner Union within a period of **15 days** from the date of receipt of the copy of this order. This direction is not meant for stalling the election and this direction is issued only to ensure that the 3rd respondent does not keep the dispute pending endlessly. No costs.

**30.01.2023**

Index : Yes/No  
Internet : Yes  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
KP

**N. ANAND VENKATESH, J.**

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To

1. The Chairperson



Chennai Port Authority  
Chennai-600 001.

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