IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.21329 of 2011

1.Manickam

2.K.Viswanathan … Petitioner

vs.

1.The Textile Commissioner,
Ministry of Textiles,
Government of India,
having its Regional Office at
Chinthamani Co-op. Super Market Complex,
Mettupalayam Road, R.S.Puram (PO),
Coimbatore – 641 002.

2.The Deputy Director and Officer-in-Charge,
Regional Office of the Textile Commissioner,
Coimbatore – 641 002.

3.Government of Tamil Nadu,
Rep. by Principal Secretary to Government,
Labour and Employment (D-2 Department),
Fort St.George,
Chennai – 600 009.

4.Managing Director,
Sri Hari Mills,
55, Race Course Road,

Coimbatore – 18. … Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Order No.10(54)/2010-Court/CBE-15744, dated 15.12.2010, passed by the 2nd respondent and quash the same and consequently direct the 1st 2nd respondents to grant the relief under Textile Workers Rehabilitation Fund Scheme of Government of India to all the workers of Sri Hari Mills, Coimbatore.

For Petitioner : Ms.Pooja Jain for
M/s.P.V.S.Giridhar and Sai

For R1 & R2 : Mr.M.Karthikeyan
Additional Central Government
Standing Counsel

For R3 : Mr.M.S.Premkumar
Government Advocate

For R4 : Mr.S.R.Sundar

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<u>O R D E R</u>

This Writ Petition is filed to call for the records relating to Order No.10(54)/2010-Court/CBE-15744, dated 15.12.2010, passed by the 2nd respondent and quash the same and consequently direct the 1st 2nd respondents to grant the relief under Textile Workers Rehabilitation Fund

Scheme of Government of India to all the workers of Sri Hari Mills, Coimbatore.

2.The 1st petitioner is the Secretary of Sri Hari Mills Branch, National Textile Union. The 2nd petitioner is the Secretary of the Sri Hari Mills Branch, Coimbatore District Textile Workers Union, Coimbatore. Both the petitioners were working as Spinning Siders in the Spinning Department of the Sri Hari Mills. As the secretaries of the respective Unions branches of Sri Hari Mills Pvt. Ltd., the petitioners were recognised as the Trade Union Leaders of Sri Hari Mills Pvt. Ltd. The Sri Hari Mills Pvt. Ltd. was incorporated in the year 1956 and due to severe financial crisis in the year 1984 it was closed. Thereafter on the directions of the Government, the Mill was run by the Handlooms & Textiles Department of the Government with the permission of the BIFR. However due to heavy losses, the mill was permanently closed on 01.10.1995. As the workers dues remained unpaid they approached the Hon'ble High Court which ordered the sale of the immovable properties of the Company for settlement of the dues as per the settlement entered into between the Unions and the Management reckoning 01.10.1995 as the date of closure. The Government of India, in order to provide succour to the employees in the textile industry who lost their livelihood announced Textile Workers Rehabilitation Fund Scheme to provide relief to the workmen rendered unemployed as a consequence of closure or liquidation of the Textile Units in the private sector.

3.A representation dated 17.09.2010 was sent to the respondent requesting him to issue orders immediately for grant of relief under the Textile Workers Rehabilitation Fund Scheme to the workmen of Sri Hari Mills Pvt. Ltd. As no orders were passed on the aforesaid representation, the 1st petitioner filed writ petition in W.P.No.25394 of 2010 seeking for the disposal of the said representation. This Court vide order dated 01.12.2010 allowed the writ petition, by directing the respondent to consider and pass orders on the representations dated 01.07.2008 and 06.09.2010, within a period of four weeks from the date of receipt of a copy of the order. In compliance to the order passed by this Court in

W.P.No.25394 of 2010, the second respondent passed the impugned order dated 15.12.2010, rejecting the request of the petitioners for grant of relief under Textile Workers Rehabilitation Fund Scheme. Aggrieved by the rejection order of the second respondent, the petitioners have filed the above writ petition.

4.The respondent Nos.1 and 2 filed a detailed counter stating that the impugned order dated 15.12.2010 was in accordance with law and the guidelines of the Textile Workers Rehabilitation Fund Scheme hence the challenge to the same was untenable. The respondent further stated that the workers of the Sri Hari Mills Pvt. Ltd. were not eligible for grant of relief under Textile Workers Rehabilitation Fund Scheme as the Mill was neither closed under Section 25(O) of the Industrial Disputes Act, nor an official liquidator was appointed under the Companies Act, 1956, for the purpose of winding up of the unit. It was further stated that the relief was to be granted under Textile Workers Rehabilitation Fund Scheme in respect of units which strictly adhered the guidelines of the scheme. It was therefore stated that there were no merits in the writ petition and the same deserved to be rejected.

5.The third respondent filed its counter stating that the Management of the Textile Mill objected to the closure of the Mill and therefore the Mill could not be closed under Section 25(O) of the Act. The third respondent submitted that the Government did not declare the Mill closed under Section 25(O) of the ID Act for want of consent for closure by the Management of the Sri Hari Mills Pvt. Ltd..

6.The fourth respondent filed a detailed counter stating that the TWRF scheme was not applicable to it's workmen and that the workmen were paid the entire dues payable to them in full quit and final settlement under Section 18(1) of the settlement entered into between the petitioners and the Management. The fourth respondent therefore submitted that the petitioners had no *locus standi* to file the above writ petition.

7.The learned counsel appearing for the petitioner submitted that it is an admitted fact that the mill was closed on 01.10.1995. Subsequently, under orders of BIFR dated 06.11.1996 as confirmed by AIFR on 09.03.1999 the company was directed to be wound up. Therefore according to the learned counsel when these conditions stipulated in the scheme were satisfied there was no justification for the respondents to reject the claim of the petitioners. The learned counsel for the petitioner relying on the letter dated 17.07.2008 and 18.10.2010 of the Joint Textile Commissioner and the Member Secretary, Commissioner of Labour submitted that the recommendations were made by the set of parties for declaring the listed Textiles closed under Section 25(O) of the Act and get relief under Section TWRF Scheme in consultation with Law Department as done by Government of Andhra Pradesh. The learned counsel therefore submitted that the impugned order is unjustified and against the interest of the Labour Court and hence deserved to be setaside.

8.The learned counsel appearing for the respondents on the other hand submitted that the writ petition has become infructuous, because the TWRF Scheme was discontinued from 01.04.2017, as the said scheme was merged with the Rajiv Gandhi Shramik Kalyan Yojana (RGSKY). The learned counsel further submitted that it was the mandatory requirement of the scheme to have a declaration of closure under Section 25 (O) of the ID Act or in the alternative for an appointment of an Official Liquidator under the Companies Act for winding up of the unit. As the said conditions were not satisfied, the petitioners were not entitled to any relief under the Scheme. The learned counsel therefore prayed that the writ petition deserved to be dismissed.

9.I have heard both the learned counsels and I have perused the materials on record.

10.Eligible conditions for getting the benefit under the TWRF Scheme are given under Clauses 2 and 3 of the Scheme dated 10.06.2003. The relevant Clauses 2 and 3 read are as follows:

> *"2.Such unit should have been completely closed, meaning that its production had come to a complete grinding halt after 05.06.1985.*

3.In addition, such a unit should have been declared as closed unit under Section 25(O) of the Industrial Disputes Act, 1947, or alternatively an Official Liquidator was appointed under Companies Act, 1956, for the purpose of wining up of the unit."

11.From a reading of the above clauses, it is clear that the unit should have been closed when it's production totally stopped after 05.06.1985 and the unit should have been declared as closed under Section 25 (O) of the ID Act and alternatively, the Official Liquidator should have been appointed under the Companies Act for the purpose of winding up of the unit. There is no declaration of closure under Section 25(O) of the ID Act. Though initially, the Official Liquidator was appointed for the purpose of the winding up of the unit, the appointment was subsequently recalled on 24.04.1997 by this Court in C.P.No.83 of 85. It is not disputed by the petitioner that there is no closure order issued under Section 25(O) of the ID Act. It is therefore very clear that the conditions under clause 2 and 3 of the Scheme were not satisfied and therefore no fault can be found with the impugned order.

12.The learned counsel appearing for the fourth respondent referred to the Judgment of the Hon'ble Supreme Court in the case of ***Union of India and Another Vs. Shree Shankar Textiles Ex-Employees' Union and Others*** reported in ***(2007) 7 Supreme Court Cases 783***, wherein under similar facts, the Hon'ble Supreme Court after referring to the very same Clauses of the scheme held as follows:

> *“9.It is pointed out that the conditions are cumulative and in the instant case Conditions (ii) and (iii) are not fulfilled. The closure was essentially in terms of conciliation under Section 12(3) of the Act and the production had come to grinding halt before 5.6.1985. In the writ application there was no challenge to the policy on the ground that Conditions (ii) and (iii) suffered from irrationality and discrimination.”*

13.In my view, the above said Judgment of the Hon'ble Supreme Court squarely applies to the facts of the present case also.

14.Accordingly, this Writ Petition stands dismissed. The Order No.10(54)/2020-Court/CBE-15744 dated 15.12.2010, passed by the second respondent is confirmed. However, there shall be no order as to costs.

30.11.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-speaking order
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To

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Ministry of Textiles,
Government of India,
having its Regional Office at
Chinthamani Co-op. Super Market Complex,
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N.MALA, J.

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