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W.P.No.35843 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.35843 of 2016
and
W.M.P.Nos.30784 of 2016**

Puthiya Jananayaga Thozhilalar Munnani,
Hosur Weg Industries (India) Private Limited Branch,
Represented by its Treasurer,
Registration No.24/KRI,
L-416, Old HUDCO, Hosur,
Hosur - 635 109.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.
2. The Labour Officer (Conciliation),
Krishnagiri.
3. The Management,
Weg Industries (India) Private Limited,
Plot No.E20, Moranapalli Village,
SIPCOT - II,
Hosur - 635 109.

...



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Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records with relating to the proceedings of the second respondent in Na.Ka.E.A/436/2015 dated 07.03.2016 and quash the same and further direct the second respondent to the conciliate in the Industrial Dispute raised by the petitioner Union questioning the domestic enquiry.

For Petitioner	:	Mrs.J.S.Jovita Berry for Mr.S.Partha Sarthi
For Respondents	:	Mr.M.S.Prem Kumar Government Advocate for R1 & R2 Mr.S.Shivathana Mohan for M/s.S.Ramasubramaniam and Associates for R3

O R D E R

This Writ Petition has been filed to call for the records of the entire records with relating to the proceedings of the second respondent in Na.Ka.E.A/436/2015 dated 07.03.2016 and quash the same and further direct the second respondent to conciliate the Industrial Dispute raised by the petitioner Union questioning the domestic enquiry.



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2. The case of the petitioner is that the petitioner Union raised a Industrial Dispute under Section 2K of the Industrial Disputes Act, 1947 for conducting enquiry in Tamil language and to change Enquiry Officer appointed by the respondent Management, however the same was rejected by the Conciliation Officer vide order dated 07.03.2016. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submits that she reports no instructions, since she has already given change of vakalat. She would further submit that the petitioner Union raised the Industrial Dispute before the Conciliation Officer to conduct enquiry in Tamil language and to change Enquiry Officer on the ground that the employees of the petitioner Union does not know English language, however the same was rejected which is unsustainable. Even the Enquiry Officer must have given an opportunity to the members of the Union who don't know the English language.



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4. The learned counsel appearing for the respondent Management submits that majority of the labourers agreed to conduct enquiry in English language, thereby enquiry was conducted and enquiry report was also submitted, no punishment order was passed during the pendency of the Writ Petition.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. In view of the submission made by the learned counsel for the petitioner and the learned counsel for the respondent management, the impugned order passed by the second respondent is set side. The third respondent is directed to conduct a fresh enquiry in respect of the members who opted for conducting enquiry in Tamil language and conclude the same and pass appropriate orders after providing an opportunity of being heard to the petitioner. If the Enquiry Officer does not know Tamil language, the third respondent Management is directed to change Enquiry Officer who knows



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Tamil language and thereafter, conduct the enquiry and pass appropriate orders on merits and in accordance with law.

7. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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Today, the case is listed under the caption "for being mentioned" at the instance of the learned counsel for the petitioner.

2. Heard the learned counsel appearing for the petitioner.

3. Considering the submissions made by the learned counsel appearing for the petitioner, the 6th paragraph of the order in W.P.No.35843 of 2016 dated 18.07.2023, is substituted with the following paragraph:

"6. In view of the submission made by the learned counsel for the petitioner and the learned counsel for the respondent management, the impugned order passed by the second respondent is set side. The third respondent is directed to conduct a fresh enquiry in respect of the members who opted for conducting enquiry in Tamil language excluding the persons, who already faced dismissal order in which the third respondent Management filed approval petition under Section 33(2)(b) and the same was rejected



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and conclude the same and pass appropriate orders after providing an opportunity of being heard to the petitioner. If the Enquiry Officer does not know Tamil language, the third respondent Management is directed to change Enquiry Officer who knows Tamil language and thereafter, conduct the enquiry and pass appropriate orders on merits and in accordance with law."

4. Except the above modification, all other paras made in the earlier order dated 18.07.2023 shall remain intact. Registry is directed to carry out necessary corrections and issue the corrected order copy to the parties forthwith.

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