



W.P.Nos.42061 of 2016 and 4701 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.42061 of 2016 and 4701 of 2017

And

W.M.P.Nos.35982 of 2016 and 4932 of 2017

Nilgiri Industrial & General Workers Union
Rep. by its President ... Petitioner in W.P.42061/2016

The Commissioner,
Gudalur Municipality,
Gudalur,
Nilgiris District. ... Petitioner in W.P.4701/2017

Vs.

1.The Commissioner,
Gudalur Municipality,
Gudalur,
Nilgiri District.

2.The Labour Inspector,
Under Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen)
Act, 1981,
Coonoor – 1,
Nilgiri District.
W.P.42061/2016

... Respondents in

1.The Inspector of Labour,
Authority under The Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act, 1981,
Coonoor,



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Nilgiris District.

2. Reliance Self Help Group

- 3.D.Suresh
- 4.I.Manikandan
- 5.N.Loganathan
- 6.A.Chinnasamy
- 7.P.Murugan
- 8.A.Mahalingam
- 9.P.Suresh
- 10.V.Karthick @ Karthikeyan
- 11.R.Selvabharathi
- 12.C.Rameshkumar
- 13.S.Manikandan
- 14.R.Pradeeskumar
- 15.K.Arumugam
- 16.S.Alagiri
- 17.K.Ganesh
- 18.B.Ramesh
- 19.S.Aanandan

... Respondents in W.P.4701/2017

Prayer in W.P.No.42061 of 2016:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to implement to proceedings order in Na.Ka.No.856/2013 dated 19.08.2016 of the second respondent and confer permanent status to the 16 members of the petitioner union namely 1.Mr.D.Suresh S/o.Duraisamy, 2.I.Manikandan S/o.Iyappan, 3.N.Loganathan S/o.Nachi, 4.A.Chinnasamy S/o.Ammavasai, 5.P.Murugan S/o.Palani, 6.A.Mahalingam S/o.Alagiri, 7.P.Suresh S/o.Palanisamy, 8.V.Karthikeyan S/o.Velusamy, 9.R.Selvabharathi S/o.Rajan, 10.Ramesh Kumar S/o.Chinnasamy, 11.S.Manikandan S/o.Subramani, 12.R.Pradeesh Kumar S/o.Rajan, 13.K.Arumugam S/o.Kalimuthu,



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14.S.Alagiri S/o.Saminathan, 15.B.Ramesh S/o.Bhalan, 16.C.Anandan S/o.Chandran, to the post of sweeper in the first respondent Municipality.

Prayer in W.P.No.4701 of 2017 :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in Na.Ka.No.856/2013 dated 19.08.2016 and quash the same.

For Petitioner : Mr.K.Lavan
in W.P.No.42061 of 2016

Mr.P.Srinivas
in W.P.No.4701 of 2017

For Respondents : Mr.P.Srinivas for R1
Mr.M.S.Prem Kumar for R2
Government Advocate
in W.P.No.42061 of 2016

Mr.M.S.Prem Kumar for R1
Government Advocate
Mr.K.Lavan for R3 to R16, R18 & R19
R2 – No Appearance
in W.P.No.4701 of 2017

COMMON ORDER

W.P.No.42061 of 2016 has been filed by the Workmen Union seeking to direct the first respondent to implement the order of the Inspector of Labour in Na.Ka.No.856/2013 dated 19.08.2016 and to confer permanent status to 16 members of the petitioner Union



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namely, 1.Mr.D.Suresh S/o.Duraisamy, 2.I.Manikandan S/o.Iyappan, 3.N.Loganathan S/o.Nachi, 4.A.Chinnasamy S/o.Ammavasai, 5.P.Murugan S/o.Palani, 6.A.Mahalingam S/o.Alagiri, 7.P.Suresh S/o.Palanisamy 8.V.Karthikeyan S/o.Velusamy, 9.R.Selvabharathi S/o.Rajan, 10.Ramesh Kumar S/o.Chinnasamy, 11.S.Manikandan S/o.Subramani, 12.R.Pradeesh Kumar S/o.Rajan, 13.K.Arumugam S/o.Kalimuthu, 14.S.Alagiri S/o.Saminathan, 15.B.Ramesh S/o.Bhalan, 16.C.Anandan S/o.Chandran, to the post of sweeper in the first respondent Municipality.

2.W.P.No.4701 of 2017 has been filed by the Municipality seeking to quash the order of the Inspector of Labour in Na.Ka.No.856/2013 dated 19.08.2016.

3.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.42061 of 2016 would be hereinafter referred to as 'Workmen Union' and the petitioner in W.P.No.4701 of 2017 would be hereinafter referred to as 'Municipality'.



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4.The facts of the case is that the aforesaid 16 members of the Workmen Union were working as Sweepers in the Municipality for more than 480 days in two calender year and hence the Workmen Union gave petition to the Inspector of Labour to confer permanent status to them and after trial, the Inspector of Labour passed order dated 19.08.2016 directing the Municipality to confer permanent status to the said 16 members. Aggrieved by the same, the Municipality has filed W.P.No.4701 of 2017. Since the order of the Inspector of Labour dated 19.08.2016 was not complied by the Municipality, the Workmen Union gave representation to the Municipality on 02.11.2016 seeking to implement the order of the Inspector of Labour in Na.Ka. No.856/2013 dated 19.08.2016 and since the same has not yet been considered, the Workmen Union has filed W.P.No.42061 of 2016.

5.The learned counsel appearing for the Workmen Union submitted that the aforesaid 16 members joined as Sweepers in the Municipality on daily wage basis and continuously worked for more than 480 days in two calender years and are eligible to be conferred with permanent status. Therefore, the Workmen Union gave petition to the Inspector of Labour to confer permanent status to them and



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after trial, the Inspector of Labour passed order dated 19.08.2016 directing the Municipality to confer permanent status to the said 16 members. Hence, this Court may issue direction to the Municipality to implement the order of the Inspector of Labour in Na.Ka.No.856/2013 dated 19.08.2016 and to confer permanent status to 16 members of the Workmen Union namely, 1.D.Suresh, 2.I.Manikandan, 3.N.Loganathan, 4.A.Chinnasamy, 5.P.Murugan, 6.A.Mahalingam, 7.P.Suresh, 8.V.Karthikeyan, 9.R.Selvabharathi, 10.Ramesh Kumar, 11.S.Manikandan, 12.R.Pradeesh Kumar, 13.K.Arumugam, 14.S.Alagiri, 15.B.Ramesh, 16.C.Anandan, to the post of Sweeper in the Municipality.

6.The learned counsel appearing for the Municipality submitted that the aforesaid 16 members of the Workmen Union are not the employees of the Municipality and they are the members of the Reliance Self Help Group. The Municipality had engaged Reliance Self Help Group for cleaning the Gudalur Town by calling upon tender under the Tender Transparency Act in 2009. The learned counsel further submitted that the said work arrangement does not amount to contract labour since the Self Help Group, as a group carry out the work and also ensures that its members get sufficient remuneration.



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Hence, the impugned order is *per se* illegal and the same is liable to be set aside.

7.In reply, the learned counsel appearing for the Workmen Union submitted that Municipality has not denied the employment of the aforesaid 16 members in the Municipality and has also not produced any registration under Contract Labour (Regulation and Abolition) Act, 1970 to prove that the aforesaid members were engaged through its contractor Reliance Self Help Group before the Inspector of Labour. Hence, the impugned order does not warrant any interference.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Admittedly, the Workmen Union gave petition to the Inspector of Labour, Coonoor, seeking to confer permanent status to its 16 members as if the aforesaid 16 members joined as Sweepers in the Municipality on daily wage basis and continuously worked for more than 480 days in two calendar years and are eligible to be conferred with permanent status and after trial, the Inspector of Labour passed



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order dated 19.08.2016 directing the Municipality to confer permanent status to the said 16 members.

10.However, the Municipality claim that the aforesaid 16 members of the Workmen Union are not the employees of the Municipality and they are the members of the Reliance Self Help Group. The Municipality had engaged Reliance Self Help Group for cleaning the Gudalur Town by calling upon tender under the Tender Transparency Act in 2009 and that the said work arrangement does not amount to contract labour since the Self Help Group, as a group carry out the work and also ensures that its members get sufficient remuneration.

11.Perusal of the order of the Inspector of Labour, Coonoor, in Na.Ka.No.856/2013 dated 19.08.2016 reveals that no document has been produced before the Inspector of Labour to substantiate the employer and employee relationship inbetween the members of the Workmen Union and the Municipality and no document has been produced to substantiate that the members of the Workmen Union continuously worked under the Municipality for more than 480 days in



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two calendar years. In the absence of any material, the finding rendered by the Inspector of Labour in the order dated 19.08.2016 is perverse, not sustainable and warrants interference. Accordingly, the order of the Inspector of Labour, Coonoor, in Na.Ka.No.856/2013 dated 19.08.2016 is set aside.

12.In fine, the writ petition filed by the Municipality i.e., W.P.No.4701 of 2017 is allowed and the writ petition filed by the Workmen Union i.e., W.P.No.42061 of 2016 is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

31.07.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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Gudalur Municipality,
Gudalur,
Nilgiri District.

2.The Labour Inspector,
Under Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen)
Act, 1981,
Coonoor – 1,

9/10



Nilgiri District.

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M.DHANDAPANI,J.
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and 4701 of 2017
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