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W.P.Nos.32350 of 2014 &
23778 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.32350 of 2014 and
W.P.No.23778 of 2015

M/s Khizaria Leather Ex. Employees
Welfare Association (Regn.No.48/2012)
Rep. by its Secretary Mr.A.Janakiraman
2A, Muthalamman Koil Campus
Swamy Street, Ranipet – 632 401
Vellore District.

Petitioner in
both W.Ps

vs

1. The Government of Tamil Nadu
Rep. by its Secretary
Department of Labour and Employment
Secretariat, Fort St. George
Chennai – 600 009.
2. The Commission of Labour
O/o Commissioner of Labour
DMS Campus, Chennai – 600 006.
3. The Management of Khizaria Leathers Ltd.
91-B, MBT Road
Ranipet, Valaja Taluk, Vellore District.
4. The Management of Victory Associates
91-B, MBT Road
Ranipet, Valaja Taluk
Vellore District.

Respondents in
both W.Ps



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Prayer in W.P.No.32350 of 2014: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the order made in Na.Ka.No.C3/40385/2013 dated 20.12.2013 passed by the 2nd respondent and quash the same and consequently directing the 1st respondent to permit the workmen/ members of the petitioner association to apply directly to the State Government for the Revenue Recovery Certificate under Section 33(C)(1) of the Industrial Dispute Act without any judicial adjudication on the issue relating to the closure of the 3rd respondent establishment;

Prayer in W.P.No.23778 of 2015: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records pertaining to the order made in Letter No.22081/P2/2014-7 dated 02.06.2015 issued by the 1st respondent and consequently direct the 1st respondent to review the order dated 12.01.2000 exempting the 3rd respondent from seeking permission for closure of the establishment under Section 25(o)(1) of the Industrial Disputes Act.

For the Petitioners in : Mr.G.Pugazhenth
both W.Ps

For the Respondents in : Mr.Arun Kumar
both W.Ps Additional Government Pleader
for respondent 1 & 2

Mr.R.Dinesh
for M/s Ahmad Associates
for respondent 3



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Ms.Reena Mohanasudaram
for M/s Devadasan & Sagar
for respondent 4
in W.P.No.32350 of 2014

Mr.K.Suthan
for respondent 4
in W.P.No.23778 of 2015

COMMON ORDER

The order passed by the Labour Commissioner, granting liberty to the petitioner / Association to raise the industrial disputes by following the procedures under the Industrial Disputes Act, 1947 is under challenge in the present writ petitions.

2. The petitioner is M/s.Khazaria Leather Export Employees' Association under the Tamil Nadu Societies Act. The petitioner / Association states that originally there were 715 workers engaged by the third respondent management and there were several disputes. The members of the petitioner / Association were forced to give resignation letters on the assurance that they would be taken back.



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3. However, the learned counsel appearing on behalf of the third respondent states that, exemption orders were already granted under Section 25(o) of the Industrial Disputes Act and therefore, the case of the petitioner Association cannot be considered. It is further contended that the exemption order granted under Section 25(o) of the Industrial Disputes Act was challenged by the Trade Union concerned by filing two writ petitions and these two writ petitions were dismissed and accordingly, the order of exemption was confirmed by the High Court of Madras.

4. Beyond the facts stated above, the petitioner is a Welfare Association, therefore, labour disputes cannot be represented through the Welfare Association. The Trade Union labourers, in respect of the employees working in the third respondent Management, already filed a writ petition, which was rejected and the exemption order issued under Section 25(o) was confirmed. If at all the original workers, who are all the members of the petitioner / Association are aggrieved, it is open for them to put forth their grievances only through their Trade Union, the members or in



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any other individual capacity, as the case may be, and by following the procedures as contemplated under the Industrial Disputes Act.

5. Thus the petitioner / Welfare Association has no *locus standi* to maintain labour disputes under the Industrial Disputes Act. In respect of the above principles, this Court considered the same in ***W.P (MD) No.7555 of 2012*** dated 14.08.2012 in the case of ***The Indian Southern Region Postal Pensioners Welfare Association vs The Union of India, through the Secretary of India to Department of Pension and Pensioners Welfare***. The relevant paragraph of the judgment cited *supra* are extracted hereunder:

“2. A preliminary objection has been raised to the maintainability of the writ on the ground, that writ on behalf of the Association in service matters is not maintainable in view of the law laid down by this Court, in W.P. No.41633 of 2006 decided on 23.11.2011 (Tamil Nadu Public Works Department and Highways Employees Union Vs. State of Tamil Nadu and others) and the judgment of a Hon'ble Division Bench of this Court in W.P.(MD) No.4544 of 2012 decided on 11.04.2012 (Association of Veteran Employees of Minority Academic Recognised Institutions of all kind, vs. the Secretary to Government and others).

3. The learned counsel for the petitioner, however,



contends that the writ as framed would maintainable, in view of the law laid down by the Full Bench of Allahabad High Court in Umesh Chand Vinod Kumar and others vs. Krishi Utpadan Mandi Samiti and another (AIR 1984 46), wherein it was held that an Association of persons for enforcement of the rights of its member as distinguished from its own right is maintainable. The petitioner cannot draw any advantage from the judgment of the Hon'ble Allahabad High Court, in view of the judgments of this Court holding that a writ petition on behalf of the association, in service matter is not maintainable. Otherwise in this judgment also, it is held that an association whether registered or unregistered cannot maintain a petition under Article 226 of the Constitution of India for enforcement or protection of rights of its members, as distinguished from enforcement of its own rights.

4. The learned counsel for the petitioner, placed reliance in judgment of the Hon'ble Supreme Court in Committee of Management and another vs Vice Chancellor and others reported in 2009 (3) MLJ 323 (SC), laying down that the existence of alternative remedy cannot be a ground to refuse exercise of writ jurisdiction, when the order is passed by an authority without jurisdiction or is in violation of the principles of natural justice.

5. The reliance was thereafter placed on the judgment of Hon'ble Supreme Court in Ram and Shyam Company vs. State of Haryana and others (1985 (3) SCC 267). This judgment is again on the exercise of writ jurisdiction in spite of availability of alternative remedy.



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6. *The learned counsel for the petitioner also placed reliance on a judgment of the Hon'ble Supreme Court in*

(i) Babubhai Jamnadas Patel vs. State of Gujarat and others (2009(9) SCC 610);

(ii) Fertilizer Corporaton Kamagar Union (Regd)., and others vs. Union of India and others (AIR 1981 SC 344);

(iii) State of West Bengal and others vs. Committee for Protection of Democratic Rights, West Bengal and others reported in (2010 (3) SCC 571);

(iv) The Union of India and another vs. SPS VAINS (RETD) AND OTHER reported in 2008(9) SCC 125 and

(v) The judgment of the Hon'ble Supreme Court in D.S.Nakara and others vs. Union of India (1983 (1) SCC 305) ;

7. *In none of these cases, the question whether the writ petition on behalf of association in service matters, has not been decided or considered.*

8. *In absence of any decision to the contrary of the Hon'ble Supreme Court holding that a writ on behalf of the association in service matters is competent, this Court is bound by the decision of this Court in W.P. No.41633 of 2006 decided on 23.11.2011 (Tamil Nadu Public Works Department and Highways Employees Union Vs. State of Tamil Nadu and others) and the judgment of a Hon'ble Division Bench of this Court in W.P.(MD) No.4544 of 2012 decided on 11.04.2012 (Association of Veteran Employees of Minority*



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Academic Recognised Institutions of all kind, vs. the Secretary to Government and others).

9. The writ petition on behalf of the association therefore is not competent, and is accordingly dismissed as not competent.

10. However, this order shall not a bar to individual members of an association to have their grievances redressed by filing a writ petition in their capacity, as singularly or jointly with the permission of this Court. No costs."

6. In view of the principles and based on the judgment cited *supra*, this Court is of the considered opinion that the writ petition is not maintainable, since it is filed by the Welfare Association challenging the labour disputes. Accordingly, the evicted labourers / workmen are at liberty to approach the competent authority or forum, as the case may be, by following the procedures as contemplated under the Industrial Disputes Act.

7. Accordingly, these writ petitions are disposed of with the aforesaid liberty. There will be no order as to costs.

Index : Yes/No
Neutral Order: Yes/No
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To:

1. The Secretary
The Government of Tamil Nadu
Department of Labour and Employment
Secretariat, Fort St. George
Chennai – 600 009.
2. The Commission of Labour
O/o Commissioner of Labour
DMS Campus, Chennai – 600 006.



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S.M.SUBRAMANIAM,J.

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