



W.P.No.16115 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	05.01.2023
PRONOUNCED ON :	27.04.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.16115 of 2014

General Secretary,
Chennai Perunagara

Jananayaga Thozhilalar Sangam.
No.1/10, 11th Street, Karunanethi Nagar,
Ayanavaram,
Chennai – 600 023.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Labour and Employment Department,
Fort. St. George, Chennai – 600 009.

2. The Management,
B and C Mills, No.106,
Armenian Street, Chennai – 600 001

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records and



W.P.No.16115 of 2014

papers from the files of the 1st respondent's G.O.(D) No.322 dated 17.07.2013 and quash the same in as much as it refused to refer demands 8,15 and 19 and letter No.28341/A1/2013-5 dated 29.05.2014 by the 1st respondent to refusing to reconsider the above G.O. (D) No.322 dated 17.07.2013 and directing the 1st respondent to refer demands No.8,15 and 19 to a labour court for adjudication.

For Petitioner : Mr.S. Kumarasamy

For R-1 : Mr.T.Arunkumar,
Additional Government Pleader

For R-2 : Mr.Anand Gopalan
For M/s.T.S. Gopalan & Co.

ORDER

This writ petition is filed praying to quash G.O.(D)No.322 dated 17.07.2013 passed by the first respondent, whereby, the respondent Department refused to refer the demands made by the Petitioner-Sangam to the Labour Court. The petitioner also sought for a direction to the 1st respondent to refer demands No.8, 15 and 19 to a Labour Court for adjudication.



W.P.No.16115 of 2014

WEB COPY

2. The petitioner herein is the General Secretary of the Chennai Perunagara Jananayaga Thozhilalar Sangam. The workers of B & C Mill/second respondent, Chennai are the members of the petitioner's Union, comprising of 22 members, had joined the petitioner's Union in early 2011. The petitioner's Union had sent a charter of demands on 25.06.2011 for increase in wages and improvement in service conditions. The petitioner Union raised Industrial Dispute on 08.09.2011, wherein, conciliation failed and the 1st respondent-Department by G.O.(D) No.321 dated 17.07.2013, referred 10 issues for adjudication. The said industrial dispute was raised in I.D.No.287 of 2013 and it was disposed of on 12.12.2019. The very same first respondent by G.O.(D) No.322 dated 17.07.2013, had refused to refer 10 issues for adjudication relating to providing lands to workmen, VRS scheme etc. The petitioner Union, for reconsideration of such of those issues, has made a representation dated 17.10.2013 to the first respondent and also requested to refer demands 8, 15 & 19 for adjudication.



W.P.No.16115 of 2014

3. Mr.S.Kumarasamy, learned counsel for the petitioner Union, submits that

Demand No.8 is pertaining to allotment of 1000 square feet house site to each employee and Rs.3 lakhs as house building loan, which was sought in the barrack land housing complex and it was requested that the workers continuing in service after 28.05.2008 should be granted the above benefits. But the said request has been refused by the Government stating that it is not the subject matter in an Industrial Dispute.

4. Moreover, in demand no.15, increase of 9 days of causal leave to 12 days per year from the existing 3 days per year was sought for and the same was also refused by the respondent on the ground that this issue is covered by the Model Standing Orders. Besides, in demand No.19, the petitioner Union has sought for the Management to provide for educational expenses of two children of each worker and according to the petitioner, it was refused on the ground that the said demand is not the subject matter of an industrial dispute.



W.P.No.16115 of 2014

WEB COPY

5. The learned counsel for the petitioner Union, submits that the Labour Court has the power, competence and authority to decide on legality of the demands raised, therefore, the impugned order lacking any reasons for rejection of the same is only a non-speaking order.

6. The learned counsel for the petitioner also submitted that in W.P.Nos.18117 & 18304 of 2008 filed before this court, a Joint Memorandum was filed by the Petitioner-Management of Binny Limited and the Madras Labour Union and B & C Mills Staff Union. declaring the Company as a 'Sick' company from 30.09.2005 and 244 workers who were working in it would get 500 sq.feet of company land and as per the settlement arrived between the Management and the workmen, all other workmen except the 83 workers, have left the company by opting voluntary retirement scheme and all proceedings before BIFR shall stand closed.



W.P.No.16115 of 2014

WEB COPY

7. The learned counsel for the petitioner would further contend that as per Section 2(k) of the Industrial Dispute Act of 1947, any dispute or difference between employers and employees is an Industrial Dispute. Section 2(k) of I.D.Act, reads as under:-

“‘Industrial Dispute’ means any Dispute or difference between Employers and Employers, or between Employers & Workmen, or between workmen & workmen which is connected with the employment on-employment or terms of employment or with the conditions of Labour, if any person”

According to the learned counsel for the petitioner Union, demand nos.8,15 and 19 are connected with and fall under terms of employment and conditions of labour and as such are very much related to Industrial Dispute and this has not been considered by the first respondent. Therefore, the learned counsel for the petitioner Union prayed for quashing the impugned G.O. (D) No.322 dated 17.07.2013, thereby allowing the writ petition.

8. The learned Additional Government Pleader appearing for the



W.P.No.16115 of 2014

WEB COPY

1st respondent would submit that the provision of education expenses of two children of each worker does not come under the purview of the I.D.Act and therefore, the respondent did not refer this demand for adjudication. He further submitted that after the settlement reached between the Management and the workmen on 28.03.2008, except for 83 workers, all other workers have left the company by opting voluntary retirement service. Therefore, seeking land from the company is not a subject matter of the I.D.Act and hence, the demands raised by the petitioner Union could not be considered.

9. The learned Additional Government Pleader submitted that the definition of an Industrial Dispute can be divided into three parts:-*(i) there must be a dispute or difference;(ii) the dispute or difference must be between employers and employers or between employers and workmen or between workmen and workmen; and(iii) the dispute or difference must be connected with the employment or non-employment or the terms of employment or with conditions of labour of any person.*



W.P.No.16115 of 2014

Therefore, according to him, seeking of demand nos.8 & 19 does not fall under the above third part and demand no.15 is covered by Model Standing Order. In view of the same, vide impugned G.O., referring these demands for adjudication was rejected, which does not seek interference of this Court.

10. The learned counsel for the 2nd Respondent submits that the mill was declared as SICK Industrial Company under the SICK Industrial Companies (Special Provisions Act, 1985). The said scheme was sanctioned in the year 1984 and in the year 1996 there was a flood due to which the entire shop floor of the factory, machinery was drowned into the flood. Hence, on 15.06.1996, the 2nd respondent by notice suspended the operations of the mill.

11. He further submits that there is a settlement under Section 12(3) of the Industrial Disputes Act, 1947 entered between the 2nd Respondent mill and two unions representing the workmen to float a VRS Scheme. After floating of VRS



W.P.No.16115 of 2014

scheme in April 1998, less than 10% of the workmen were only in the rolls of the

WEB COPY

2nd Respondent mill. BIFR declared the sanctioned scheme of 1994 as having failed. The New scheme was declared under BIFR but the same did not materialize. Further there was several proceedings initiated before BIFR, AIFR and before this Hon'ble Court. He further submit that there was another scheme sanctioned by BIFR dated 23.10.2003 and the BIFR recorded; Memorandum of Understanding entered into between the 2nd Respondent mills and the Union, providing 500 Sq.ft. of land to 244 persons who continued in company quarters and the share holders of the 2nd Respondent mill drew a scheme of demerger and filed it before this Hon'ble Court and the same was approved.

12. The learned counsel for the second respondent further submits that as per the demerger scheme, the assets as well as the service of the employees of the 2nd Respondent mill was split between Binny Limited, Binny Mills Limited and S.V.



W.P.No.16115 of 2014

Global Mill Limited. He further submits that the Petitioner Union raised an Industrial

Dispute by making various demands. On 17.07.2013, the Government by G.O. No.

321, referred the dispute to the Labour Court and the same has been numbered as

I.D.No. 287 of 2013. The Government declined to refer 3 demands, The learned

counsel further brought to the notice of this court the order passed by the learned

Judge, III Addl Labour Court, in the Award in I.D.No.287 of 2014, wherein, the

petitioner herein raised certain dispute and reference was taken under u/s.2K of the

ID Act, it was observed that the workmen under the respondent mill worked till its

closure of operations in the year 1996 and the remaining workers continued for

attendance purpose and therefore for the purpose of the dispute, the management

mill can only be treated as a commercial establishment and not as a mill.

13. Heard the learned counsel for the Petitioner and Respondents 1 and 2 and



W.P.No.16115 of 2014

perused the Records.

WEB COPY

14. A perusal of the records would go to show that the the demands raised cannot be referred to Labour court as the subjects could not come under industrial dispute. Further there is no evidence to show that the workmen concerned are working in the mill. The first respondent, by the very same G.O., on the same day, referred certain issues for adjudication which are subject matter coming under industrial dispute. Therefore, this court is of the considered view that the 1st respondent, on a proper examination of the demands, come to a conclusion that the they do not merit a reference. Further, due to BIFR and AIFR proceedings, as to whether workmen in Petitioner Sangam continue to work under the Management, is not ascertained by the learned counsel for the petitioner. Therefore, the impugned order requires no interference by this court. In the result, the Writ Petition is dismissed. No costs.

Sts/nvsri

27.04.2023



WEB COPY



W.P.No.16115 of 2014

J.NISHA BANU, J.,

sts/nvsri

To:

1. The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Labour and Employment Department,
Fort. St. George, Chennai – 600 009.

Order in
W.P.No.16115 of 2014

27.04.2023