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WP.No.18101 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 18101 of 2014

and

M.P.Nos.1 of 2014 & 1 of 2015

Tamizh Manila KTK Thangamani
Anaithu Amaipusara Pothu Thozhilalar Sangam,
CDR 139/2004
represented by its General Secretary,
Office at No.12, Salem Main Road,
Ramachandrapettai,
Vridhachalam – 606 001.

.... Petitioner

Vs

Labour Officer,
(Social Security Scheme),
No.24-1, Cross Street,
Sitaram Nagar,
Cuddalore – 608 001.

.... Respondent

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the respondent, relating to her proceedings in Na.Ka.No.523/2013 dated 07.04.2014 on the file of the respondent and quash the same as illegal and without jurisdiction.



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For Petitioner : Mr.Balan Haridas

For Respondents : Mr.M.P.Murugan Raja
Government Advocate

ORDER

This Writ Petition has been filed challenging the proceedings dated 07.04.2014 in Na.Ka.No.523/2013 passed by the respondent, thereby the certification of the petitioner's members have been suspended from 07.04.2014.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner Association caters to the needs of the workers, who are employed in the unorganized sectors, as per the notification and schedules of Tamil Nadu Manual Workers (Regulation of employment and conditions of work) Act 1982. Under Section 9(1) of the Tamil Nadu Manual Workers Social Security and Welfare Scheme 2006, any manual worker who has complied with the age of 18 years, but not completed 60 years, may register his name in the Board through the Labour Officer



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(Social Security Scheme) to become a members of the Scheme and as per

Section 9(2) Application for such registration shall be made in duplicate to the Labour Officer of the respective District in the Form I appended to get certificate of employment issued by any of the persons specified below under Section 9(2) (b), the President or General Secretary of a Registered Trade Union of the employment concern. Thus, under Sub-clause 9(b) a certificate of employment can be issued by the Presiding or General Secretary of the Trade Union. Accordingly, the petitioner was issued with such certificates as per Section 9(2) of the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006. Sub-clause 3(a) of Section 9 says that the registration has to be made after due verification by the Village Administrative Officer.

4. Section 10 of the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006 says that if the Labour Officer has reasonable cause to believe that the manual registered worker gave false particulars or contravened the provisions of the Act, the Labour Officer can cancel the registration and before cancellation, the employee should be given



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reasonable opportunity. The respondent had given sufficient opportunity to the petitioner before cancelling the registration of manual registered workers on the ground that false particulars had been furnished. The petitioner had taken a specific stand that only rich persons are entertained by the petitioner, the respondent caused to cancel the registration of the members registration.

5. A perusal of the records reveals that the petitioner was served with final show cause notice on 24.02.2014. On receipt of the same, the petitioner submitted an explanation by a letter dated 14.03.2014 and it revealed that the specific allegation as against the Officer of the respondent, who passed an impugned order and requested to appoint other officer to enquire and pass appropriate orders. On receipt of the same, again the petitioner was served with another show cause notice in which, he made several allegations as against the Officer concerned and requested to conduct enquiry by some other Officer and pass appropriate orders. It is also evident from the complaint dated 17.01.2014 lodged by the petitioner before the Principal Secretary of Labour and Employment. On receipt of



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the same, an enquiry was ordered to be held on 30.05.2014. In the meanwhile, the respondent passed the impugned order on 07.04.2014.

6. However, the respondent engaged a Sub-Inspector of Labour to verify the details furnished by the petitioners/employees. On verification, some of the employees were doing the job such as weaving wire bags and working in private establishments and were also food vendor, vegetable vendor and flower vendor including agriculture. Therefore, he recommended to cancel their registration only on the ground that the petitioner made a specific allegation as against the respondent and on receipt of the complaint, an enquiry was ordered to be held on 30.05.2014. In the meantime, the respondent also passed the impugned order and as such, it cannot be suspended and it is liable to be set aside.

7. The learned counsel for the petitioner also raised the ground that the respondent has no power to cancel or suspend the registration of their manual worker.



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8. Accordingly, the matter is remanded back to the respondent herein for passing fresh order. It is made clear that now the officer concerned had already been transferred and the new officer is incharge of the respondent and whatever the materials already submitted by the Sub-Inspector of Labour and the explanation submitted by the petitioner are very much available in the records and on such records, the respondent is directed to pass appropriate orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. There is no need to issue fresh show cause notice calling for any explanation. The respondent is also directed to take into consideration the ground about the jurisdiction of the respondent to cancel or suspend the registration.

9. In the result, this Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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