



W.A.Nos.2802 and 2862 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

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THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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Maiva Pharma Employees Union affiliated to
Labour Progressive Federation (R.No.560/04 DRP)
187/5, 9th Cross Street, Kamaraj Nagar,
Chinna Elasagiri, Hosur-635 109,
Krishnagiri District.

.. Appellant

Vs.

1.Maiva Pharma Private Limited,
No.32, SIPCOT Industrial Complex,
Phase-I, Hosur-635 126
rep. by its Senior Manager (HR&IR) Karthi.

2.Labour Office Krishnagiri,
Combined Court Building Complex,
Rayakottai Road, Wahab Nagar,
Krishnagiri, Tamil Nadu-635 002.

3.The Inspector of Police,
SIPCOT, Hosur-635 126.

.. Respondents

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Prayer in W.A.No.2802 of 2021: Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 22.6.2021 passed in W.P.No.13073 of 2021.

Prayer in W.A.No.2862 of 2021: Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 27.8.2021 passed in W.M.P.No.16204 of 2021 in W.P.No.13073 of 2021.

For the Appellant : Mr.KK Ram Siddhartha

For the Respondents : Mr.Shivathanu Mohan
for respondent No.1

: No Appearance
for respondents 2 and 3

COMMON JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.KK Ram Siddhartha, learned counsel for the appellant and Mr.S.Shivathanu Mohan, learned counsel for the first respondent.

2. The appellant is challenging the order passed by the learned Single Judge dated 22.6.2021 in a writ petition bearing No.13073 of



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2021 and further the order dated 27.8.2021 in W.M.P.No.16204 of 2021 in W.P.No.13073 of 2021.

3. Learned counsel for the appellant submits that it was verbally agreed between the parties that the employer would not initiate disciplinary proceedings against the employees of the appellant union and on the basis of the said assurance, the appellant union agreed to withdraw the strike. In paragraph 7 of the order of the learned Single Judge in the writ petition, the statement made by the learned Senior Advocate for the employer that the employees would not be suspended is recorded. In fact, the matter was heard on the very same day and it is only on the basis of the assurance, the appellant agreed to withdraw the strike. Otherwise, if such assurance would not have been made, the appellant would have continued with the strike. The predicament of the employees may be considered. Even in the miscellaneous petition filed for modification of the order, the learned Single Judge has failed to consider the said aspect.



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4. What had verbally transpired between the parties before the learned Single Judge cannot be a subject-matter of consideration in the appeals, more particularly, when the same is not the admitted fact. It is only before the learned Single Judge, where the matter was argued, the said grievance can be raised. The appellant had filed miscellaneous petition for modification of the order seeking direction against the management not to take disciplinary action against the employees who went on strike and not to deduct wages for the period of strike. The learned Single Judge even in an order passed on the modification application did not record about the agreement between the parties.

5. In the absence of any written document of any agreement between the parties, it would not be possible to pass any order in the appeals. It is open for the appellant to take recourse to the proceedings, as may be permissible under law.



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6. The writ appeals, as such, are disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.18425, 18426, 19111 and 19112 of 2021 are closed.

(S.V.G., CJ.)

(D.B.C., J.)
04.10.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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