



***W.P.Nos. 25122 & 24935
of 2022***

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P Nos.25122 & 24935 of 2022
& WMP.Nos.23880, 23881, 23883, 24065, 24067 & 24068 of 2022**

M.Thiruvengadam, General
Secretary of All India
Defense Employees & Officers
Welfare Association,
Chennai-62.

...Petitioner in
WP.No.24935 of 2022

Avadi Thin Oorthi Thozhilaga
Thozhilalar Munnetra Sangam
rep.by General Secretary
I.Selvaraj, Chennai-54.

...Petitioner in
WP.No.25122 of 2022

Vs

1.The Directorate of Defence,
Secretary, (Coordination &
Service), Ministry of Defense,
Government of India, 10A,
SK Bose Road, Kolkatta.



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2.The Chief General Manager,
HVF, Avadi, Chennai-54.

3.The General Manager, IMS &
STORES, HVF, Avadi, Chennai-54.

4.The Election Returning Officer
(Works Committee & Canteen
Committee), HVF, Avadi,
Chennai-54.

5.The Labour Welfare Officer
(HVF), HVF, Avadi, Chennai-54.

...R1 to R5 in both WP

6.HVF Employees Union, rep.by its
General Secretary, Avadi,
Chennai-54.

(R6 impleaded vide order dated
26.4.2023 in WMP.No.27621 of 2022
by MSRJ)

...R6 in WP.No.24935 of 2022

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the election notification dated 30.08.2022 issued by the second respondent, quash the same and reissue the election notification in accordance with statutory provisions of the Industrial Disputes Act, 1947.



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For Petitioner in
WP.No.24935 of 2022 : Mr.N.Senthilkumar

For Petitioner in
WP.No.25122 of 2022 : Mr.B.K.Girish Neelakantan

For Respondents 1 to 5
in both WPs : Mr.K.Subbu Ranga Bharathi,
CGSC

For Respondent-6 in
WP.No.24935 of 2022 : Mr.M.Karthik

COMMON ORDER

These petitions are filed by the petitioners seeking to quash the election notification dated 30.08.2022 issued by the second respondent and to direct the second respondent to reissue the election notification in accordance with the provisions of the Industrial Disputes Act, 1947.

2. The facts leading to filing of these cases are as follows :

The petitioner associations were formed to protect the interest and rights of the workers in the Heavy Vehicles Factory, Avadi. The second respondent issued the election notification to conduct election for selecting members to the works committee and the canteen committee from the trade



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union. Previously, the elections to the works committee were conducted only by section-wise so as to protect the interest of the workers in small units within the establishment. In the said notification, the entire establishment was declared as a single constituency instead of separate section-wise constituency and the election process was in violation of the statutory rules. Further, the interest of the smaller trade unions representing smaller working section to have a chance to win the elections was deprived by the impugned election notification. Hence, the petitioners made separate representations both dated 06.09.2022 to respondents 2 to 5 seeking to conduct the election after complying with the statutory rules. However, respondents 2 to 5 proceeded to conduct the election based on the election notification. Therefore, challenging the impugned election notification, the petitioners are before this Court.

3. This Court, on 23.09.2022 in WP.No.25122 of 2022, directed the election to be conducted, however, making it clear that the result thereof would be subject to outcome of the writ petition. It was also directed that the election result should not be declared and the same should be put in a sealed cover and brought to this Court.



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4. Learned counsel for the petitioners would submit that though the petitioners made separate representations both dated 06.09.2022 to respondents 2 to 5 seeking to conduct the election after complying with the statutory rules, however, respondents 2 to 5 proceeded to conduct the election based on the impugned election notification of the 2nd respondent which is not sustainable. Accordingly, sought for allowing these Writ Petitions.

5. In W.P.No.25122 of 2022, the third respondent filed a counter for himself and on behalf of other respondents stating as follows :

(i) Pursuant to the circular dated 23.05.1995 issued by the Ministry of Defence, certain instructions were given with regard to the mode of conducting elections to the works committee in the defense installations after following the judgment of the Apex Court. Only thereafter, the works committee elections are being conducted as a single constituency. The term of the existing works committee would expire on 26.09.2022 in the second respondent factory and therefore, the impugned election notification was



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published. Since the tenure of the present works committee could not be extended beyond 26.09.2022 in terms of the letters of the Ordinance Factory Board dated 11.06.2020 and 06.08.2020, the election, as proposed, should be conducted. As per the actual records, there are only 3908 eligible voters to participate in the works committee and 15 booths were allotted to the eligible voters. The intention of the petitioner is against the statutory provisions. The second respondent published a factory order dated 30.08.2022 and this was in compliance of the said circular dated 23.05.1995. From 1997 onwards, elections to the works committee are conducted considering it to be a single constituency. Even in the year 2012 and 2014, the petitioner contested to the works committee elections as a candidate and got votes.

(ii) The respondent factory disposed of the said representation dated 06.09.2022 made by the petitioner vide letter dated 07.09.2022 intimating that as per the judgment of the Apex Court in the case of Union of India Vs. MTSSD Workers Union [reported in AIR 1988 SC 633], distribution of constituencies was not contemplated as per the relevant Rules and based on



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that, the Ministry of Defence issued the said circular dated 23.05.1995 stating that where more than 50% of the eligible voters are becoming the members of the trade union, the election for the works committee should be held as a single constituency.

(iii) The entire process of conducting the election is based on the relevant rules and the instructions issued to that effect. The respondents are bound to follow the same while conducting the works committee election at the respondent factory. The works committee should consist of 10 members elected among the workmen of the factory through secret ballot. Hence, the eligible voters of the respondent factory will have 10 votes to cast to elect 10 members in the secret ballot for the works committee.

(iv) The impugned election notification was published in the official intranet site of the second respondent factory and it could be viewed by all the employees of the factory and therefore, the original copy was not required to be issued. Mr.M.Thiruvengadam filed another writ petition in W.P.No.24935 of 2022 for the same relief with an ulterior motive to stall the election process of the works committee. Accordingly, he sought to dismiss the writ petition.



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6. After conducting the election for the works committee on 24.09.2022, pursuant to the directions of this Court, by filing an affidavit dated 12.10.2022, the third respondent produced (i) a detailed report of the Returning Officer with regard to the election conducted on 24.09.2022; (ii) the election results for the works committee kept in a sealed cover; and (iii) the election results for the canteen committee kept in a sealed cover. Further, he sought permission of this Court to allow the respondents to declare the results.

7. Heard the respective learned counsel for the petitioner in both the writ petitions, the learned Central Government Standing Counsel appearing for respondents 1 to 5 in both the writ petitions and the learned counsel appearing for the sixth respondent in the first writ petition.

8. As per the directions issued by this Court vide order dated 23.09.2022, it is seen that after conducting the election on 24.09.2022, the respondents have placed the result of the election before this Court in a



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sealed cover. If at all the petitioners have any grievance with regard to the conduct of the elections, it is for the petitioners to ventilate their grievance in the manner known to law and this Court under Article 226 cannot adjudicate disputed questions of fact. The results of the election shall be declared and it is open to the petitioners, if not satisfied, to question the election, including its conduct, in the manner known to law.

9. Accordingly, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

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M.DHANDAPANI,J

NHS

To

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(Coordination & Service),
Ministry of Defense,
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SK Bose Road, Kolkatta.
- 2.The Chief General Manager,
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