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W.P.No.30379 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	19.12.2022
Pronounced on	:	03.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

W.P.No.30379 of 2022

and

W.M.P.Nos.29816 & 29817 of 2022

M/s.Hindusthan National Glass & Industries Ltd.,
Duly represented by its Authorized Power of Attorney Agent
of the Resolution Professional - Mr.Anbalagan Kathiresan
Thondamanatham Village, Villianur
Sedarapet Main Road,
Puducherry 605 502.

... Petitioner

Vs.

- 1.The Superintendent of Police,
Valuthavor Road, Mettupalayam,
Puducherry 605 009.
- 2.The Inspector of Police,
Sedarapet Police Station,
Mailam Main Road, Sedarapet, Puducherry 605 111.
- 3.The Labour Officer (Conciliation), Puducherry
Office of the Labour Officer Conciliation
No.15, 1st Floor, Nehru Nagar,
Puducherry 605 001.
- 4.Hindusthan National Glass Employees Welfare Union-INTUC
Registration No.1863/RTU/2020



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Affiliated to Tamil Nadu INTUC
Sedarapet Road, Thondamanatham & Post,
Puducherry 605 502.

5.HNG Industries Thozhilar Nala Sangam
(CITU) RTU Registration No.1802/2016, Thondamanatham
42, Cuddalore Road, Bharathi Mill Thittu, Mudaliarpeta,
Puducherry 605 004.

... Respondents

PRAYER: This Writ Petition filed under Article 226 of Constitution of India, to issue writ of Mandamus, directing the first and second respondent to provide adequate police protection to the petitioner's company in order to protect the property and life of the employees of the petitioner company and by preventing the members of the fourth and fifth respondent their members, agents, representatives or any other person representatives or any other person acting at their behest from in any way preventing the permanent workmen, loyal staff and officer, managers, directors, contract workmen, advisors, visitor of the petitioner by in any way interfering with the day to day production and maintenance activities of the petitioner factory and also preventing the movement of finished goods of the petitioner by staging any form of protests by hoisting flags, by gheraoing, conducting any illegal strikes including sit in strike inside the factory premises and assembling illegally in any form, within 500 meters in and around the petitioner's factory premises viz., M/S.Hindusthan National Glass & Industries Ltd formerly M/S.ACE Glass containers ltd., located at Thondamanatham Village, Villianur, Sedarapet Main Road, Puducherry 605 502.



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For Petitioner : Mr.D.Ferinand

For Respondents : Mr.V.Balamurugane for R1 & R2,
Additional Public Prosecutor (Pondicherry)

Mr.N.G.R.Prasad for M/S Row and Reddy for R5

Mrs.G.DJearany,
Government Advocate (crl.side) for R3

ORDER

This Writ Petition has been filed to direct the first and second respondent to provide a police protection to the petitioner's company in order to protect the property and life of the employees of the petitioner's company by preventing the members of the fourth and fifth respondent.

2. The submissions of the learned counsel for the petitioner is as follows:

(a) the petitioner's company is engaged in the business of manufacturing of glass containers. The petitioner's company had gone into the liquidation under Insolvency and Bankruptcy Code vide order dated 21.10.2021 passed by the National Company Law, Tribunal, Calcutta. Mr.Girish Sriram Jueneja was appointed as Resolution Professional. The petitioner herein Mr.Anbalagan Kathiresan was authorized by the Resolution Professional. The petitioner company has furnace with the capacity of 375 tonne per day but operating 220-



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260 tonnes which generates 1500 degree centigrade and requires constant monitoring and upkeep of the same. If the furnace is left unattended, it will lead to a major accident and fire hazards endangering the life of everyone in the vicinity. Even during the Covid-19 pandemic, the petitioner company obtained requisite permission and continued the manufacturing activities with minimum support from fourth and fifth respondents.

(b) The petitioner company has 238 staffs and 210 contract workers. The long term agreement was expired in the year 2014. Aggreived over the same, the employees moved before Industrial Tribunal cum Labour Court, Puducherry vide ID OP.No.(T) 2/2017 and it is pending. The Charter of Demand (COD) was given to the petitioner on 26.02.2020 by INTUC union regarding wage increase. Even during the lock down, the petitioner company paid full salary to its permanent/contract/company employees between April to June 2020.

(c) Four members viz., 1) M.R.Ramasami, 2) Zaramane, 3) Saran R, 4) R.Jayakrishnan refused to work on the duties assigned to them on 19.06.2020. They were issued charge memo and suspended on 25.06.2020. On 26.06.2020, INTUC Union and its member led by their union leader had commenced an



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illegal strike within the premises of the petitioner company demanding roll back on the suspension of the delinquent workmen. 47 workmen threatened the contract workers and the other workers from entering into the premises of the petitioner company. In the evening, one Arulvel along with four company employees and 7 other work men, began altercation with Mr.RADJY.R, previous AGM-HR by criminally trespassing into the factory. They illegally entered into the production area and threatened the contract workers and other staffs. The respondents 4 and 5 and their members started shouting slogans in front of the company. They are preventing the company staffs and contract employees from ingress and egress of the factory premises by preventing/obstructing the movements of the vehicles, materials i.e., raw materials/some finished goods from being moved in and out of the factory. The cessation of work in the factory causes great hardship to the petitioner company in addition to, being exposed to legal proceedings, if it fails to fulfil its contractual obligations.

(d) the petitioner company had given a complaint to the respondents 1 and 2 on 27.06.2020. Since, there was no action on the part of the respondents police, Writ Petition has been filed in W.P.No.8845 of 2020 before this Court,



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seeking interim injunction. This Court on 12.08.2020 granted interim injunction for a period of eight weeks. However, the respondents 4 and 5 continued to engage in the illegal strike. The petitioner company left with no option had declared lockout on 01.07.2020. The petitioner company engaged the services of staff on deputation from thier sister Plants, Trainees and staff in order to ensure the safety of the industry and general public. Vide GO's dated 13.05.2022 and 08.06.2022, the third respondent has referred the following Industrial Disputs for adjudication:

"a. Whether the dispute raised by the Union Workmen represented by (i) Hindusthan National Glass Employees Welfare Union - INTUC-CITY against the management of M/s.Hindusthan National Glass & Industries Ltd., Sedarpet, Puducherry over charter of demand/wage revision is justified or not? If justified what relief the Uninon Workmen are entitled to?

b. Whether the dispute raised by the Management of Hindusthan National Glass Employees Welfare Union-INTUC, Puducherry and (ii) HNG Industries Thozilalar Nala Sangam, Puducherry -CITU, Puducherry over strike is justified or not? If justified, what relief the Management is entitled to?



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c. Whether declaring lock out to all permanent workmen under Section 24 (3) of the Industrial Dispute Act, 1947 and thereafter functioning of the factory with staff/ contract labourers is justified or not? If justified, what relief the permanent workment are entitled to?

d. Whether alteration of service conditions of 47 workment during the pendency of Conciliation proceedings which is in violation of Section 33 of the Industrial Disputes Act. 1947, is justified or not? If justified, what relief 47 workment are entitled to?"

(e) When the Industrial dispute is pending adjudication, the fourth and fifth respondents are preventing other workmen/ contract workers/staffs from accessing the production unit. Therefore, the petitioner had given representations before the first and second respondents on 09.11.2022, highlighting the happening of unlawful events and activities of members of the fourth and fifth respondent union. Till date, no action has been taken. Therefore, this petition has been filed seeking police protection to protect the property and life of the petitioner's employees.



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3.(i) In reply, learned counsel appearing for the fifth respondent submitted that the prayer seeking for police protection cannot be maintained as the petitioner company had already approached this Court in W.P.No.26548 of 2021. No interim order was granted in the said Writ petition and it is pending adjudication. When the petition is still pending, the present petition cannot be maintained. There is no wage settlement in the petitioner company since 2011. Workers Union issued a Charter of Demand to the Management, regarding long term basis settlement. Initially, petitioner agreed to consider the demands of the Union. Later, suspended four victim workers.

3.(ii). The Labour Union raised dispute relating to wage revision before the third respondent. The third respondent submitted failure of conciliation report on 31.05.2021. Petitioner company referred the dispute to the Labour Court Puducherry and it is pending adjudication. In violation of Section 33 of Industrial Dispute Act, petitioner company altered the service conditions of the permanent workmen by declaring illegal lock out for them. Fifth respondent raised Union Industrial Dispute with regard to declaration of lock out to the permanent workmen for the members of the fifth respondent union. The said dispute is pending adjudication. Puducherry Government issued orders under



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Section 10(3) of the Industrial Dispute Act, 1947 to prohibit the continuance of lock out vide Order dated 05.10.2022. When the union requested the petitioner company to take back workmen, they refused to do the same. Without resolving the problem of the workmen, the petitioner is repeatedly approaching the Court with similar prayers. Hence, prays to dismiss this petition. He relied on the following orders in support of his submission.

(i) **Crl.O.P.No.22032 of 2013 : "M/S.Cnf Automotive India Private Limited Vs.The Superintendent of Police, Kancheepuram District and Another"** for the proposition that no anticipatory order can be given to provide police protection in the labour field as there was no law and order problem and it cannot be presumed that there will be one.

(ii) **W.P.No.13406 of 2007 : " M/S. Bharath Petroleum Vs Petroleum Employees Union and others"** for the proposition that the concept of strike is a creation of the ID Act. Neither the Civil Court nor any other Tribunal or body can award any relief.

(iii) **W.P.No.22929 of 2009 : "M/S. Kaleeswari Refinery Private Ltd., Vs.The Inspector of Police and others"** for the proposition that the petitioner as a matter of right cannot claim police protection unless the law permits.



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(iv) **W.P.No.17450 of 2011: "M/S.Bharat Petroleum Corporation Ltd.,**

Vs. Petroleum Employees Union and others" for the proposition that the Civil Court will have no jurisdiction to try and adjudicate upon Industrial Dispute if it concerned the enforcement of certain rights or liability created only under the Act.

4. In reply, learned counsel for the petitioner submitted that the order for prohibiting lock out was stayed by this Court on 23.11.2022 in W.P.No.31338 of 2022 and W.M.P.Nos.30784 & 30785 of 2022. The copy of the stay order is produced for perusal of this Court. This order shows that there is an order of interim stay of the direction given under the impugned order dated 05.10.2022 prohibiting the continuation of lock out, declared by the petitioner company. The learned counsel for the petitioner submitted the orders passed in W.P.No.23427 of 2018 for the proposition that to maintain law and order and to ensure the free ingress and egress of the workers, police protection can be granted.



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5. I have considered the matter in the light of the submissions made by the learned counsel for the petitioner and the learned counsel for the fifth respondent.

6. From the entire facts narrated by the counsel appearing for the parties, it is clear that the petitioner company had gone into liquidation. If production is stopped or disrupted, it would put great hardship and heavy loss to the petitioner company. The apprehension is that the furnace which generates 1500 degree centigrade, requires constant monitoring by the staffs. If that is not done, it would lead to major accident and fire hazards endangering the life of every one in the vicinity. The photographs filed in the typed set shows that the workers are engaged in protest and disturbing the free ingress and egress of the workmen and movement of vehicles. The protest must be in lawful and peaceful manner. Protesters/workmen cannot indulge in preventing the free ingress and egress of the other workmen, staff and contract workers, the movement of raw materials, finished goods and vehicles etc. If the workers indulge in such unlawful activities, it is the duty of the police to provide necessary protection to the workers, staffs, contract workers and the movement of vehicles. Only if the petitioner company operates, it can come out of the



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liquidation. If production is stopped, it would cause great financial loss to the petitioner company and also to the workers.

7. It is to be noted that the workmen who are agitating for their rights or demands against the Management, cannot prevent other workmen from working. If they want to show their protest in a democratic way, they can do it after obtaining proper permission from the concerned jurisdictional police at a place that was ear marked for such democratic protest.

8. Taking into consideration of all these aspects, this Court directs the respondents 4 and 5 to conduct protest beyond 100 meters away from the petitioner company premises in a lawful and peaceful manner. If there is any violent, illegal or unlawful activities committed by the striking workmen, it is the duty of the respondents 1 & 2 to prevent it and ensure that the property and life of the employees of the petitioner company is protected; that the workmen, staff, contract workers are not prevented by the striking workmen, from entering the petitioner company and that vehicle movement is not obstructed.



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9. With the above direction, this Writ Petition stands disposed of.

Consequently, connected Miscellaneous Petitions are closed. No costs.

03.01.2023

Index: Yes/No

Speaking/Non speaking order

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To

1. The Superintendent of Police,
Valuthavor Road, Mettupalayam,
Puducherry 605 009.
2. The Inspector of Police,
Sedarapet Police Station,
Mailam Main Road, Sedarapet, Puducherry 605 111.
3. The Labour Officer (Conciliation), Puducherry
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No.15, 1st Floor, Nehru Nagar,
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4. The Public Prosecutor,
Puducherry.



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G.CHANDRASEKHARAN.J.,

shk

Pre-Deliver Order in
W.P.No.30379 of 2022
and
W.M.P.Nos.29816 & 29817 of 2022

03.01.2023