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W.P.No.18431 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18431 of 2017

And

W.M.P.No.19994 of 2017

Nethaji Strides Shasun Thozhilalar matrum
Uzhiyaragal Nala Sangam
Rep. by its Secretary

... Petitioner

Vs.

1.The Commissioner of Labour,
Labour Department,
Government of Puducherry.

2.Strides Shasun Limited
Rep. by its General Manager

3.Illanthalaivar Raghul Gandhi Puducherry
Shasun Thozhilalargal /
Uzhiyaragal Nala Sangam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent pertains to the impugned order bearing Ref.No.2378/L.AB/AIL/T/2017/735, Labour Department, Government of Puducherry dated 16.06.2017 and quash the same as arbitrary,



W.P.No.18431 of 2017

illegal and consequently direct the first respondent to conduct the election among the trade union of the second respondent establishment to elect representative trade union as directed by this court in batch of writ petitions W.P.Nos.32360, 35540 and 39167 of 2016 dated 19.01.2017.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : Mr.M.Nirmal Kumar for R1
Government Advocate (P)
Mr.S.Bazeer Ahamed for R2
Mr.E.Thiyaga for R3
for M/s.B.Bala Vijayan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to the impugned order bearing Ref.No.2378/L.AB/AIL/T/2017/735, Labour Department, Government of Puducherry dated 16.06.2017 and to quash the same as arbitrary, illegal and consequently direct the first respondent to conduct election among the trade union of the second respondent establishment to elect representative trade union as directed by this Court in batch of writ petitions in W.P.Nos.32360, 35540 and 39167 of 2016 dated 19.01.2017.

2/6



W.P.No.18431 of 2017

WEB COPY

2.The case of the petitioner is that the petitioner is a registered trade union, registered under the Trade Union Act, before the Registrar of Trade Union and its members are permanent employees employed in the second respondent factory which is a manufacturer of paramedical ingredients. There are 11 trade unions functioning in the second respondent and the second respondent Management filed W.P.Nos.32360, 35540 and 39167 of 2016 before this Court seeking direction to the Commissioner of Labour to conduct election among the 11 trade unions to elect any one of the said union as representative union to be recognized by the second respondent for the purpose of holding negotiation talk and to sign long term settlement and this Court vide order dated 19.01.2017 allowed the said writ petitions. Thereafter, the Commissioner of Labour instead of conducting election, simply called for the member list of the 11 trade union and it was not accepted by majority of the union, however, the Commissioner of Labour, on receipt of the member list of the third respondent union passed the impugned order stating that the third respondent trade union is a majority trade union declared as representative trade union. Challenging the same, the petitioner has filed this writ petition.



W.P.No.18431 of 2017

WEB COPY

3.The learned counsel appearing for the petitioner submitted that the first respondent instead of conducting election among the 11 trade unions to elect the representative trade union, simply called for member list of the 11 trade union and on receipt of the member list of the third respondent union passed the impugned order stating that the third respondent trade union is a majority trade union and declared it as representative trade union, which is not sustainable one. Infact, the first respondent has to call each and every member of the trade union and to allow them to cast their vote and then select the representative trade union, however, the impugned order has been passed without following due process of law.

4.The learned Government Advocate (Pondicherry) appearing for the first respondent submitted that election will be conducted after allowing the members of the trade unions to cast their votes for selecting a particular trade union.

5.In view of the above, this Court directs the first respondent to call for the members list from the respective trade unions and conduct election and allow the members to select anyone of the trade union as



W.P.No.18431 of 2017

representative trade union for the purpose of holding negotiation talk and to sign long term settlement with the second respondent Management. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

6.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

10.08.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Commissioner of Labour,
Labour Department,
Government of Puducherry.



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W.P.No.18431 of 2017

M.DHANDAPANI,J.
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