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W.P.No.28616 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28616 of 2017

And

W.M.P.No.30782 of 2017

The workmen of Koyas Fastners Private Limited
Through United Labour Federation
Rep. by its Secretary

... Petitioner

Vs.

1.The Joint Commissioner of Labour,
Certifying Officer Under
Industrial Employment (Standing Orders) Act,
6th Floor, DMS Compound,
Teynampet,
Chennai – 600 006.

2.The Management of Koyas
Private Limited

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records in connection with the Certified Standing Order dated 05.06.2017 passed by the first respondent in Standing Orders Case File No.3806/2016 and quash the same.



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For Petitioner : Ms.M.Karthikeyani
For Respondents : Mr.M.S.Prem Kumar for R1
Government Advocate
Mr.C.K.Chandrasekaran for R2

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for records in connection with the Certified Standing Order dated 05.06.2017 passed by the first respondent in Standing Orders Case File No.3806/2016 and quash the same.

2.The case of the petitioner is that the second respondent submitted draft Standing Order before the first respondent and the petitioner submitted its objection, however, without hearing the petitioner, the first respondent approved the Standing Order submitted by the second respondent. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that similar issue came up for consideration before the Hon'ble Division Bench of this Court in **W.A.No.1283 of 2019 (The Management of Severn Glocon India Pvt. Ltd. Vs. M/s.United Labour Federation)** and the Hon'ble Division Bench of this Court on



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22.10.2021 remanded back the matter to the Joint Commissioner of Labour for fresh consideration. Hence, this Court may set aside the impugned order and remand the matter back to the first respondent for fresh consideration and issue direction to the first respondent to hear the petitioner through Advocate and to pass appropriate orders within a reasonable time frame.

4.The learned counsel appearing for the second respondent did not dispute the fact submitted by the learned counsel appearing for the petitioner.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.Admittedly, the second respondent submitted draft Standing Order before the first respondent and the petitioner submitted its objection, however, without hearing them, the first respondent approved the Standing Order submitted by the second respondent.

7.It is useful to extract hereunder the relevant portion of the judgment of the Hon'ble Division Bench of this Court made in



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W.A.No.1283 of 2019 (The Management of Severn Glocon India

Pvt. Ltd. Vs. M/s.United Labour Federation) dated 22.10.2021:

"3. As contended by Mr.V.Prakash, learned Senior Counsel appearing for the first respondent/writ petitioner-Federation, when several documents were produced by the first respondent-Federation raising objections to the Draft Standing Orders, instead of allowing the parties to adduce evidence in support of their respective objections, unfortunately, the second respondent has simply brushed aside the objections and certified the Draft Standing Orders by the order impugned in the writ petition. Therefore, the learned single Judge, finding fault with the approach adopted by the second respondent, after setting aside the order impugned, has rightly remanded the matter back to the second respondent to consider the issue afresh after affording reasonable opportunity to both the first respondent-Federation and the Management before granting any certification to the Draft Standing Orders. Hence, finding no infirmity with the impugned order, the writ appeal fails and it is dismissed. Needless to state that the second respondent shall complete the enquiry, after affording reasonable opportunity to both



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parties, and pass appropriate orders on merits within a period of six months from the date of receipt of a copy of this order. Consequently, interim order stands vacated and the C.M.P.No.8751 of 2019 is also dismissed. However, there is no order as to costs."

8.In view of the judgment of the Hon'ble Division Bench of this Court made in **W.A.No.1283 of 2019 (The Management of Severn Glocon India Pvt. Ltd. Vs. M/s.United Labour Federation)** dated 22.10.2021, the Certified Standing Order dated 05.06.2017 passed by the first respondent in Standing Orders Case File No.3806/2016 is set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent shall hear the petitioner through Advocate and shall also hear the second respondent and thereafter pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

9.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

09.08.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No



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M.DHANDAPANI,J.
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To

- 1.The Joint Commissioner of Labour,
Certifying Officer Under
Industrial Employment (Standing Orders) Act,
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Teynampet,
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