



W.P.(MD) No.3232 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.3232 of 2023
and WMP (MD) Nos.2995 and 2998 of 2023

M/s.NLC Tamil Nadu Power Limited
(A Joint Venture Company of NLCIL & TANGEDCO
Rep. By its Chief Executive Officer,
Having Office at
Harbor Estate
Tuticorin 628 004.

... Petitioner

-VS-

1.The Regional labour Commissioner,
Ministry of Labour and Employment
Kanaga Apartments, Suit No.3, 1st floor,
13A Lady Doak College Road
Chinnachokkikulam, Madurai 625 020.

2.The Labour Enforcement Officer,
Ministry of Labour and Employment,
Tuticorin.

3 The Superintendent of Police,
Tuticorin District, Tuticorin.

4 The District Collector
Tuticorin District, Tuticorin.



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5. Tamil Nadu Min Uzhiyar Mathiya Ammaippu,
(Regd. No.158 CPT)
Rep. By its Secretary
No.145/1A Ettayapuram Road
Tuticorin. 2

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 5th respondent and its members from proceeding with the illegal strike and indulging in any mode of agitation either within or at the Gates, or in the vicinity of the installations of the petitioner corporation, which disrupts or has the potential to disrupt generation activities or preventing by threats, intimidation or otherwise, free ingress and egress to the willing workers/officers/executives of the petitioner company, a public utility service, for attending to their work/shift/duty or otherwise.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.Veera Kathiravan for R1 to R4
Additional Advocate General
assisted by
Mr.SP.Maharajan
Special Government Pleader
Mr.T.Lajapathi Roy
Senior counsel for R5 for
M/s.Lajapathiroy Associates



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ORDER

The petitioner has filed the present writ petition for a direction to the 5th respondent and its members from proceeding with the illegal strike and indulging in any mode of agitation either within or at the Gates, or in the vicinity of the installations of the petitioner corporation, which disrupts or has the potential to disrupt generation activities or preventing by threats, intimidation or otherwise, free ingress and egress to the willing workers/officers/executives of the petitioner company, a public utility service, for attending to their work/shift/duty or otherwise.

2. The case of the petitioner is that the petitioner company is a joint venture company of NLC and TANGEDCO. Government of India had issued sanction for implementation of coal based thermal power project by NTPL at Tuticorin. Accordingly, two units have been declared as commercial operation from the year 2015. The petitioner's company is subjected with the power purchase agreement with TANGEDCO, ESCOMs of Karnataka, Puducherry electricity department and Kerala State Electricity



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Board. The petitioner being the public utility service engaged 189 employees and entrusts some other works of non-perennial to the contractors, who, in turn, engage workmen for the execution. Accordingly, in total 1500 contract labourers were engaged by the petitioner company, who are engaged through agencies/contractors and there is no relationship of employer and employee. When there is no such relationship, the contract labourers started agitation against the petitioner for making demands, such as, permanent absorption, incentives, bonus, demand for earned leave, wages on the 1st day of every month, levy of penalty, to reinstated the removed employees, for providing medical facility, EPF, granting holidays, ousting contract labourers without notice, adequate basic needs such as canteen, adequate toilets etc. By raising these demands, the 5th respondent union issued a notification dated 06.10.2022 and if the demands are not considered, they announced for a strike from 22.10.2022 indefinitely and therefore, the petitioner initiated conciliation proceedings and the next date of hearing is 20.02.2023. When the conciliation proceedings is pending, the 5th respondent announced strike without any notice, thereby restraining the labourers to enter the company, which causes reduction in power generation



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and the petitioner company will put to irreparable loss and by doing so, the 5th respondent union preventing the activities of the petitioner company and violating the provisions of the Industrial Disputes Act and hence, they are before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that while exercising their right, the 5th respondent union being the trade union registered under the Trade Union Act, should act in accordance with the Trade Unions Act and Industrial Disputes Act. However, without doing so, in a high-handed manner, preventing the ingress and egress of employees, machineries etc. and therefore, praying for appropriate direction.

4. However, Mr.T.Lajapathi Roy, learned senior counsel, appearing for the 5th respondent union by filing an affidavit would submit that the employees sitting outside the premises will not prevent any labourers or other persons from entering the premises and the 5th respondent has undertaken that the employees would not resort to any violent agitation inside and outside the petitioner's premises. The said submission is



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5. In view of the undertaking given by the 5th respondent union and considering the submission made on both sides, this writ petition is disposed of with the following directions:

The 5th respondent is directed to not to block the road, which leads to the petitioner company and the 5th respondent may rest their agitation beyond a distance of one kilometre away from the main gate of the petitioner's unit. If any breach of law and order, the law enforcing agency is directed to provide necessary police protection to the petitioner's company and the law enforcing agency shall also ensure ingress and egress to the petitioner's company by the employees and other persons, machineries etc.

No costs. Consequently connected Miscellaneous Petitions are closed.

16.02.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

RR



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M.DHANDAPANI, J.

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