



W.P(MD)No.5846 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5846 of 2023

and

W.M.P.(MD)No.5409 of 2023

Tirunelveli City District Anna General Labours Union,
(Registration No.1269/TVL),
Rep. by its District President,
G.Venkateshwaran.

... Petitioner

Vs.

1.The Joint Commissioner of Labour,
Labour Department,
Thirumal Nagar,
Tirunelveli.

2.The General Manager (Human Resource),
ATC Tires Private Limited,
Cipcot, Gangaikondan,
Tirunelveli District – 627 352.

4.Sankara Narayanan,
Election Officer,
ATC Tires Private Limited,
Plot No.2, Cipcot, Gangaikondan,
Tirunelveli District – 627 352.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, to direct the respondents 2 and



W.P(MD)No.5846 of 2023

3, to postpone the election to elect a recognized labour union to arrive a new wage agreement / settlement as per section 12(3) of the Industrial Disputes Act, 1947 as scheduled by the 2nd respondent management to some other day, other than 25.03.2023 by considering the representation of the petitioners' labour union dated 12.03.2023.

For Petitioner : Mr.A.Mohan

For Respondents : Mr.T.Villavankothai,
Addl. Government Pleader for R1.
Mr.Gupta Ravi, Senior Counsel,
For Mr.C.muthu Saravanan for R2.

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Government Pleader for the first respondent and the learned senior counsel for the second respondent. Issuance of notice to the third respondent is dispensed with.

2.The writ petitioner is a registered trade union which is also having the workers employed in the second respondent company as its members. The



W.P(MD)No.5846 of 2023

grievance of the petitioner is that there are totally 533 workmen who are eligible to vote in the election proposed to be held for recognizing the majority union for entering into negotiations with them. The case of the petitioner is that a number of workmen who are eligible to vote have gone to their native places in north India for celebrating Holi festival and that if the election is conducted in their absence, the results would not exactly reflect the ground level strength. I am not in a position to address the aforesaid contention raised by the learned counsel for the petitioner because as rightly pointed by the learned senior counsel for the second respondent, the writ petition is not maintainable. The second respondent is not a State instrumentality within the meaning of Article 12 of the Constitution of India. It is a private company and it is not discharging any public function. There is no statute governing conduct of trade union elections in force in the State of Tamilnadu. The petitioner is not able to demonstrate the existence of any legal right inhering in them or any legal duty on the part of the second respondent. For issuing a Writ of Mandamus atleast one of those two conditions should mandatorily be present. Since both the elements are absent in this case, I have to necessarily to dismiss the writ petition as not maintainable.



W.P(MD)No.5846 of 2023

3.The writ petition is dismissed as not maintainable. No costs.

Consequently, connected miscellaneous petition is closed.

17.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Joint Commissioner of Labour,
Labour Department,
Thirumal Nagar,
Tirunelveli.



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W.P(MD)No.5846 of 2023



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W.P(MD)No.5846 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.5846 of 2023

17.03.2023