



W.P.(MD).No.20152 of 2019
and Cont.P.(MD).No.1531 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.20152 of 2019
and
W.M.P.(MD).No.19673 of 2019
and
Cont.P.(MD).No.1531 of 2019

W.P.(MD).No.20152 of 2019:

Tamilnadu Mosquito Eradication
and Field Workers Association
Represented by P.Thayalan,
State Secretary,
Reg.No.54/2019,
No.3, Dhadha Sahib Complex,
1st Floor, Thiruverumpoor,
Tiruchirapalli – 13.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by Principal Secretary,
Department of Health and Family
Secretariat,
Chennai.



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and Cont.P.(MD).No.1531 of 2019

2.The State of Tamil Nadu,
Represented by its Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai.

3.The Director,
Department of Directorate of Rural Development
and Panchayat Raj Department,
Panagal Building,
Chennai – 600 015.

4.The District Collector,
Trichirapalli District,
Trichy.

5.The Assistant Director,
Panchayat Raj Department,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the fifth respondent impugned order Na.Ka. 6/395/2018 dated 31.07.2019 quash the same and direct the fourth respondent to reinstate the mosquito eradication workers with their original place with all monitor benefits including backwages.

For Petitioner : Mr.A.B.Jeeva,
For Mr.R.Chandra Subramanian.

For Respondents : Mr.S.R.A.Ramachandran,
Additional Government Pleader.



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Cont.P.(MD).No.1531 of 2019:

In

W.M.P.(MD).No.16698 of 2019

In

W.P.(MD).No.20152 of 2019

Tamilnadu Mosquito Eradication
and Field Workers Association
Represented by P.Thayalan,
State Secretary,
Reg.No.54/2019,
No.3, Dhadha Sahib Complex,
1st Floor, Thiruverumpoor,
Tiruchirapalli – 13.

... Petitioner/Petitioner/Petitioner

Vs.

1.Thiru.Sivarasu,
District Collector,
Tiruchirapalli District, Trichy.

2.Thiru.Thandapani,
Assistant Director,
Department of Rural Development,
Trichy.

... Contemnors/Respondents 4 & 5/ Respondents 4 & 5

PRAYER: Petition filed under under Section 11 of the Contempt of Court Act, 1971, to punish the contemnors/respondents 4 & 5 for their wilful disobedience of the order passed by this Court in W.M.P.(MD).No.16698 of 2019 in W.P.(MD).No.20152 of 2019 dated 24.09.2019.

For Petitioner : Mr.A.B.Jeeva,
For Mr.R.Chandra Subramanian.

For Respondents : Mr.S.R.A.Ramachandran,
Additional Government Pleader.



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COMMON ORDER

The Writ Petition is filed to quash the impugned order dated 31.07.2019 with a consequential relief to direct the fourth respondent to reinstate the mosquito eradication workers in their original place with all monetary benefits including backwages.

2. This Writ Petition is filed by the Tamil Nadu Mosquito Eradication and Field Workers Association, which is the registered body with Register No. 54/2019. The contention of the Association is that for the past 10 years, the members of the Association have been actively assisting and working in various steps controlling chicken Guniya, Malariya, Dengue Encephalitis and such other factors of mosquito infested diseases. They submitted representation to the District Collector, Trichy on 29.07.2019 seeking pay enhancement due to price raise from Rs.360/- per day to Rs.600/- for the Association members that too for those days in which they have worked for 24 or 25 days per month. The Assistant Director (Panchayat), Trichy by citing the representation dated 29.07.2019 had issued an urgent memo to remove the members of the Association from the service and appoint new persons for the posts of field



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works in mosquito eradication. Aggrieved over the said communication, the petitioner is before this Court.

3. At the time of admission, this Court has granted an order of interim stay vide order dated 24.09.2019 in W.M.P.(MD)No.16698 of 2019 and subsequently it was extended further.

4. The respondents have filed a counter along with Vacate Stay Petition wherein, it is stated that the Association have stated their members were actively working to control the infested diseases for the past 10 years. However, they have not placed even a single document to prove the same before this Court. It was decided to appoint Mazdoors on daily wages basis all over Panchayats in Trichy District. The said Mazdoors ought to involve themselves in controlling and eradicating the mosquito-oriented disease and the wages was fixed as Rs.360/- on daily wages basis. The Assistant Director of Panchayat has to get permission from the District Administration every month to procure the service of the daily wages Mazdoors. Even in the order of the District Collector, it has been clearly stated that the order is valid for one month only. When the permission is granted for one month, the petitioner cannot seek



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to extend the same and seek any wages for any other earlier period. The District Collector issued orders to engage 20 persons only. There is no name mentioned. Therefore, as and when it is necessary, some 20 persons would be engaged. Therefore, there is no continuation in engaging the Mazdoors for every month. For every month, the Mazdoors engagement was made on climatic conditions only. It is not a routine work and therefore, there is no continuing of service. Hence, the petitioner cannot seek to regularize their service after 10 years. Moreover, the petitioner cannot seek enhancement of daily wages from Rs.360/- to Rs.600/-. The workers cannot force the authority to procure their service for simple reason that they are engaged by the authority in a time bound manner. Moreover, the petitioner being an Association is not entitled to institute the litigation. Moreover, the impugned order is only an internal communication and the same cannot be considered as an order. Hence, the respondents prayed to reject the same.

5. Heard Mr.A.B.Jeeva, for Mr.R.Chandra Subramanian, learned counsel for the petitioner and Mr.S.R.A.Ramachandran, learned Additional Government Pleader for the respondents.



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6. The respondents submitted that the writ petition is filed by an Association and the same is not maintainable. But the trend of judgments to maintaining writ petition by association has changed. The principle that emerges is that a body of individuals, who have a common grievance and by reason of some disability, or incapacity, are not in a position to approach the court individually, a writ petition is certainly maintainable by an Association. This is confirmed by several judgments of various Courts. One such judgment is rendered by this court in *State Bank of Bikaner and Jaipur v. State Bank of Bikaner and Jaipur Employees Association and others* reported in 1991 *Writ Law Reporter* 638 has laid down the law and the same is extracted hereunder:

“8.Before the learned single Judge, several contentions were raised, one with respect to the defence of party, the other with respect to the nature of the relief and the third with respect to any right of the members of the writ petitioner-Association to claim anything in the name of interest beyond what had been stipulated under Regulation 12 aforesaid. Learned Single Judge has held :

"Keeping in trend with the pronouncements of the Supreme Court, it is not possible to throw out the writ petition at the threshold itself on the sole ground that it has been filed by an association of employees, without going into the merits of the other contentions. Even otherwise, the second petitioner is an individual employees and he must be deemed to be directly interested in and affected by the proposed action of the respondents. Besides, the first petitioner is a registered trade union, and it is stated that it has got membership of about 5,000, who are all employees of the second respondent all over India. It cannot be stated that the rights of its



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members would not be affected by the proposed action of the respondent. The writ laid by the first petitioner, as representing a large body of employees of the second respondent whose rights and interest are likely to be affected, must be held to be competent. Representative actions even in Writ jurisdiction cannot be thrown out on the simple ground that the body which represents the cause of its members on roll is not by itself affected. It would suffice the purpose if the rights of its members are affected; and then, as observed by the Supreme Court, collective proceedings are permissible instead of driving each individual employee affected to file an independent writ, which would result only in plurality of litigation on the common question. The Supreme Court was prepared to countenance a non-recognised association maintaining a writ petition. As observed earlier, the first petitioner is a Registered trade union and it can legitimately, as representing its member, employees of the second respondent, give vent to their grievance and seek redress and relief, as representing their cause."

For us to say, if at all it is necessary, that, this is the most correct view is not a mere formality. Learned single Judge has not come to the said conclusion without examining the scope of the writ action by a body of individual members, who together joined as an Association for such action, which is in the interest of all the members. He has rightly distinguished the cases of N.A. District Pawn Brokers' Association v. Secretary to Government of India, 1975 1 MLJ 290; C. I. Kannan v. E.S.I. Corporation MANU/TN/0205/1968 : (1968) 1 LLJ 770 Mad and M. Ramaswami v. Government of Tamil Nadu (Writ Appeal No. 472 of 1976, Judgment dated August 11, 1980) and relied upon the statement of law in the case of F.C.K.U. (Registered). Sindri v. Union of India MANU/SC/0010/1980 : (1981) 1 LLJ 193 SC and A.B.S.K. Sangh (Rly.) v. Union of India MANU/SC/0058/1980 : (1981) 1 LLJ 209 SC. The law on the subject has been candidly stated by the Supreme Court in the last of them that MANU/SC/0058/1980 : (1981) 1 LLJ 209 SC at 230" a technical point of this kind has to be overruled for the reasons that a large body of persons with a



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common grievance can always approach the Court on principle, "our current procedural jurisdiction is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented and envisions access to justice through 'class actions,' 'public interest litigation' and 'representative proceedings'. Indeed, little Indians in large numbers seeking remedies in Court through collective proceedings; instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of 'cause of action', and 'person aggrieved' and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney General has taken no objection to a non-recognised association maintaining the writ petitions." In the instant case, the Association is a recognised body as a trade union of the employees."

In the present case, the writ petition has been filed by an Association which espouses the cause of its members who are all persons who are engaged by the respondents as daily wages for the mosquito eradicating work. When the grievance of all the members of the petitioner Association is common, it would be to stand on technicality to say that each one of those members and each one of the members of the public who have a common grievance should have approached the court individually, and that the Association cannot represent its members in a case of this nature. Such a hyper technical approach would amount to a negation of justice and this Court is clearly not in favour of such an approach, especially in the light of the pronouncements of the Hon'ble Supreme Court in this regard. Moreover, the petitioner has formed the association in



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order to have collective bargaining and the same is permissible in the Industrial Disputes Act and hence, in order to protect their rights, the Association come forward with this Writ Petition. Therefore, this Court is of the considered opinion that the Writ Petition is maintainable, as far as this case is concerned.

7. The contention that was raised by the petitioner is that they were engaged continuously by the respondents, but suddenly, the impugned communication states not to engage the old Mazdoors and directed the authorities to engage new Mazdoors. The contention of the respondents is that some 20 persons would be engaged without naming them. It is the Association members who has to provide the list as and when they were engaged. Therefore, there is no continuation of service. Even the petitioner also submits that there is no continuity of service, the members will be called for on daily wages basis and there is no agreement and there is no appointment order. Moreover, it seems to be seasonal work. As and when the mosquito infested diseases are increased, the respondents would engage the members of the Association. Therefore, when there is a seasonal work, the petitioner's Association have no right to claim any regularization or absorption or permanency.



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8. The next contention of the petitioner Association is that they requested the respondents to increase the daily wages from Rs.360/- to Rs.600/- due to price raise. It is seen that the respondents have engaged the members of the petitioner's association for many years. The respondents ought to have taken into consideration the price raise into account and ought to have refixed the rate by increasing the rate every year. The Government has also adopted a policy while extending the lease or license period, after the expiry of lease or license period, by fixing increased rate by certain percentage. Therefore, this Court is of the considered opinion that the petitioner association and the respondents may negotiate the rates for every year. Consequently, the direction of the respondents to terminate the members of the petitioner's association and to engage fresh Mazdoors is liable to be quashed. Therefore, that portion of the internal communication where it directs the authorities to engage new Mazdoors alone is quashed.

9. The respondents are directed to continue the service of the members of the petitioner Association. As far as the wages are concerned, it is negotiable between the petitioner and the respondents. The order shall be complied



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forthwith. With the above direction, the Writ Petition in W.P.(MD)No.20152 of 2019 is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10. The petitioner association submitted that the respondents have not complied with the interim order and are not engaging the members of the petitioner association, hence they had filed contempt petition. Even though this is contempt, this Court in order to grant opportunity, is not inclined to punish the respondents. Moreover, in view of the final order passed in W.P.(MD). No. 20152 of 2019 dated 20.04.2023, the Contempt Petition in Cont.P.(MD)No.1531 of 2019 is closed.

20.04.2023

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

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2. The Principal Secretary,
The State of Tamil Nadu,
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S.SRIMATHY, J.

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