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W.P.(MD) No.15379 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.15379 of 2014

and

M.P.(MD) No.1 of 2014

The Management
O522, Kovilpatti Agricultural Producers
Co-operative Marketing Society
962, Sathur Road, Velayuthapuram
Kovilpatti 628 501
Tirunelveli District

... Petitioner

-vs-

1.Inspector of Factories
Thoothukudi

2.T.Ganesan

3.M.Ramanujan

4.K.Natarajan

5.M.Sakkarai

6.K.Kaliraj

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7.T.Muthuaiah

8.C.Paramasivam

9.U.Ayyanar

10.S.Sundar Raj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the order of the Inspector of Labour in No.E/1624/09, dated 27.12.2013 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.P.Thambidurai
Government Advocate for R1
No appearance for R2 to R10

ORDER

The order dated 27.12.2023, passed by the Inspector of Factories, under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 is under challenge in this writ petition.



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2. The writ petitioner is an Agricultural Producers Co-operative Marketing Society, which is a Co-operative Society registered under the Tamil Nadu Cooperative Societies Act, 1983. The petitioner – Society has not engaged the respondent – workmen directly. The respondent – workmen are neither the employees of the petitioner – Society nor engaged by the petitioner – Society directly to perform the duties and responsibilities attached with the sanctioned post in the petitioner – Society.

3. The respondent – workmen were the loadmen engaged by the carriers then and there to load and unload agricultural produces. Their services were utilized for contract carriages to load agricultural produces from TNCSC godown and to unload it in the fair price shops. Therefore, they were not engaged as employees either temporarily or on daily wage basis by the petitioner – Society.

4. Pertinently, the recruitment service conditions of the employees of the Cooperative Societies are governed under Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988. Permanency / regularization of temporary



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employment under the Cooperative Societies Act is to be granted only by following the procedures as contemplated. In this regard, the Division Bench of this Court has settled the principles in the case of ***Justine, L vs. The Registrar of Cooperative Societies***, reported in **2002 (4) CTC 385**. The said Judgment was upheld by the Honourable Supreme Court in the case of ***A.Umarani vs. Registrar, Coop Societies***, reported in **(2004) 7 SCC 112**. Therefore, the exercise of power by the first respondent is misplaced in view of the fact that the service conditions of the employees of the Cooperative Societies are governed by the special by-laws of the Society concerned, which could be approved by the competent authority under the provisions of the Tamil Nadu Cooperative Societies Act, 1983. The special enactment / Rules will prevail over the general law. When special rules are provided for recruitment of the employees of the Cooperative Society, General Law will have no application.

5. Learned counsel for the petitioner made a submission that the respondent – workmen are not being engaged even by the contract carriers, they are absolutely unconnected with the service of the petitioner – Society.



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6. This being the factum, the order passed by the Inspector of Factories under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 amounts to erroneous exercise of power and in violation of the Tamil Nadu Cooperative Societies Act, 1983 and its Rules.

7. Thus, the writ petition is allowed and the impugned order, dated 27.12.2023, passed by the first respondent, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

08.12.2023

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

krk

To:
The Inspector of Factories,
Thoothukudi.



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S.M.SUBRAMANIAM, J.

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