



W.P.(MD) No.18371 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.(MD) No.18371 of 2016

Tamil Nadu Arasu Pokkuvarathu Kalaga
Kamaraj Nadar Tholilalar Sangam,
537 KKM, through its
Regional General Secretary, (Nagercoil Region),
S.J.S.Selvakumar,
Mathias Nagar, Nagercoil-629 001,
Kanyakumari District.

.. Petitioner

Vs.

- 1.The Inspector of Labour,
Labour Office,
Parvathavarthini Salai,
Nagercoil-629 001,
Kanyakumari District.
- 2.The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli Ltd),
Kattabomman Nagar,
Tirunelveli-627 011,
Tirunelveli District.
- 3.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli Ltd),



W.P.(MD) No.18371 of 2016

Rani Thottam, Nagercoil-629 001,
Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to ensure the maintenance of printed attendance register in all branches under the control of the 3rd respondent's corporation to prove that the Labours attended the work on the particular day forthwith.

For Petitioner	:	Mr.M.Dennis Joe
For R1	:	Mr.A.Kannan Government Advocate
For RR2 & 3	:	Mr.K.Sathyasingh Standing Counsel

ORDER

This writ petition has been filed seeking writ of mandamus to direct the 1st respondent to ensure the maintenance of printed attendance registers in all the branches under the control of the 3rd respondent-Corporation to prove that the labours attended the work on the particular day forthwith in the interest of justice.

2. No counter affidavit has been filed by the respondents.



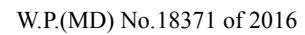
W.P.(MD) No.18371 of 2016

WEB COPY

3. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the 1st respondent and the learned Standing Counsel appearing for respondents 2 and 3 and perused the records.

4. Learned counsel for the petitioner contends that the Tamil Nadu State Transport Corporation Limited, Tirunelveli Division, Nagercoil Region is operating more than 1,000 buses and around 2,000 Drivers, Conductors and other staffs are working in different branches consisting 12 branches and all branches are under the control of the 2nd and 3rd respondents herein and nearly 5000 staffs are working in all branches. Except Conductors and Drivers, other staffs are marking their attendance in the attendance register. But, no attendance register is provided for Drivers and Conductors. Due to non-availability of attendance registers, the Drivers and Conductors could not mark their attendance.

5. The learned counsel would submit that by taking advantage of non-availability of attendance registers for the Drivers and Conductors,



6. The learned counsel further submits that as per Rule 6 of the Nadu Industrial Establishments (Conferment of Permanent Status Workmen) Rules, 1981 (hereinafter referred to as “the 1981 Rules”), employer of an industrial establishment shall maintain a register of workmen in formal. Accordingly, the learned counsel sought to allow writ petition.



W.P.(MD) No.18371 of 2016

WEB COPY

7. Learned Additional Government Pleader appearing for the 1st respondent submits that the 1st respondent has to follow Rule 6 of the 1981 Rules.

8. Learned Standing Counsel appearing for the 2nd and 3rd respondents, on oral instructions, submits that as of now, the 2nd and 3rd respondents are taking attendance of their employees through bio metric system from 2019 onwards. As such, the 2nd and 3rd respondents are not maintaining physical registers.

9. Having heard the submissions of the respective counsels and upon perusal of the material available on record, in my considered view, it is appropriate to look into the relevant provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as “the 1981 Act”) and the relevant Rules of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981 as extracted hereinunder:

Section 5 of the 1981 Act: Power and duties of Inspectors. – Subject to any rules made by the



Government in this behalf, the Inspector may, within the local limits for which he is appointed,-- (a) enter at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any industrial establishment; (b) make such examination of the industrial establishment and of any registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act: and (c) exercise such other powers as may be necessary for carrying out the purpose of this Act.

Rule 6 of the 1981 Rules. *Maintenance of registers by employers.-- (1) Every employer of an industrial establishment shall maintain a register of workmen in Form 1 and shall produce the register whenever it is required by the Inspector having jurisdiction over the industrial establishment.*

(2) Every employer shall compile an up-to-date list in Form 1 except column (9) thereof at the end of each half-year ending on the thirtieth day of June and thirty-first day of December and exhibit the list prominently at any part of the industrial establishment for perusal of the list by the workmen during working hours on any day."



W.P.(MD) No.18371 of 2016

WEB COPY

10. On careful perusal of the above mentioned Act and Rules, it is an admitted fact that every employer of an industrial establishment shall maintain a register of workmen in formal and shall produce the register whenever it is required by the Inspector having jurisdiction over the industrial establishment. As per Section 5 of the 1981 Act, it is the duty of the Inspectors to enter at all reasonable times to any industrial establishment and make such examination of the industrial establishment of any registers, records and notices and take on the spot for carrying out the purposes of the Act.

11. As per the contention of the learned counsel for the petitioner, the 2nd and 3rd respondents are not maintaining physical attendance registers which are required to be maintained as per Rule 6 of the 1981 Rules. The contention of the learned counsel for the petitioner is also supported by the contention of learned counsel for the 2nd and 3rd respondents, wherein he has stated that from 2019 onwards, they are taking attendance through bio metric system only.



W.P.(MD) No.18371 of 2016

WEB COPY

12. It may be open for the respondents to take attendance of their employees through bio metric system, in view of the latest developments in technology. But however, they have to maintain the physical registers also by following Rule 6 of the 1981 Rules. By not maintaining the physical attendance registers, there may be chance to the 2nd and 3rd respondents officers to deprive the rights of the members of the petitioner-Association, as contended by the learned counsel for the petitioner. If there is any truth in the contention of the learned counsel for the petitioner that the 2nd and 3rd respondents officials are depriving the rights of the members of the petitioner-Association who are participating in the trade union activity by marking their absence of presence of the duty though they are attending to the duty, it is not permissible under law.

13. For the above stated reasons, to meet the interest of justice, in my considered opinion, it is appropriate to direct the 1st respondent to ensure the implementation of Rule 6 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules,



W.P.(MD) No.18371 of 2016

1981 in true letter and spirit by directing the 2nd and 3rd respondents to maintain physical registers in all branches of their Corporation.

14.1. Accordingly, this Writ Petition is allowed with a direction to the 1st respondent to ensure the maintenance of physical attendance registers in all branches of the 2nd and 3rd respondents-Corporation by following Rule 6(2) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981 forthwith.

14.2. No costs.

02.08.2023

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

abr

To

1.The Inspector of Labour,
Labour Office,
Parvathavarthini Salai,
Nagercoil-629 001,
Kanyakumari District.



WEB COPY



W.P.(MD) No.18371 of 2016

BATTU DEVANAND, J.

abr

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Tirunelveli Ltd),
Kattabomman Nagar,
Tirunelveli-627 011,
Tirunelveli District.

3.The General Manager,
Tamil Nadu State Transport
Corporation (Tirunelveli Ltd),
Rani Thottam, Nagercoil-629 001,
Kanyakumari District.

W.P.(MD) No.18371 of 2016

Dated : 02.08.2023