



W.P(MD)No.28999 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28999 of 2022

M.Muhammed Ibrahim

... Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.The District Registrar,
Sivagangai District.

3.The Superintendent of Police,
Sivagangai District.

4.The Revenue Divisional Officer,
Sivagangai District.

5.The Tahsildar,
Thiruppuvanam Taluk,
Sivagangai District.

6.The Inspector of Police,
Thiruppuvanam Taluk,
Sivagangai District.

7.The President,
Bagath Singh Loadman Labour Welfare Association,
Reg. No.135/SVG,
Puliur Village, Thiruppuvanam Taluk,
Sivagangai District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct 1 to 6th respondents to allow the petitioner doing his business using his own employees on the basis of his representation dated 15.12.2022.

For Petitioner : Mr.G.Thiruvartselvan

For Respondents : Mr.M.Siddharthan

Additional Government Pleader for R1 to R6

: Mr.C.M.Arumugam for R7

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is engaged in transport business. In particular, he is engaged in loading and unloading operations to a leading paint company.

3. The grievance of the petitioner is that he is not allowed to engage his own men for these operations. The petitioner alleges that the seventh respondent is preventing him from doing so and is insisting that only the members of the seventh respondent association must be engaged by the petitioner. That led to filing of this writ petition.



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4. After hearing the learned counsel on either side, I am inclined to allow the writ petition as prayed for. The petitioner has fundamental right guaranteed under Article 19(1)(g) of the Constitution of India to carry on his business. The petitioner as an employer is entitled to engage his own men for carrying out his business operation. It is not open to the seventh respondent to interfere with the petitioner's conduct of business. The Hon'ble Supreme Court in ***Koushal Kishore Vs. State of Uttar Pradesh (2023 SCC Online SC6)*** held that the fundamental rights guaranteed under Article 19 of the Constitution of India are horizontally applicable even against the private persons. Since the petitioner's fundamental right is involved, the seventh respondent is restrained from interfering with the business activities of the petitioner. At the same time, the petitioner must remember that the loadmen working in his area ought not to be excluded completely. Of-course, the learned counsel appearing for the petitioner would contend that the loading and unloading operations require stall and that it cannot be handled by untrained labour. If that be so, the petitioner can very well train some of the selected members of the 7th respondent Association. If the petitioner totally excludes the members of the 7th respondent Association, that would certainly give rise to heartburn. The petitioner must remember that the order of this Court cannot always come to his rescue. He has to adopt a practical and pragmatic approach. I am certain that the petitioner



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will bear this consideration in mind for peaceful conduct of his business.

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5. With this observation, the Writ Petition is allowed. No costs.

31.01.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.



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