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WP No.858 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.858 of 2024
and WMP No.874 of 2024

S.Paul Kithiyon

.. Petitioner

-VS-

1. The Additional Chief Secretary
to Government, Home Department,
Secretariat, Chennai 600 009.
2. The Additional Chief Secretary
to Government, Transport Department,
Chennai 600 009.
3. The Managing Director,
SETC, T.N. Ltd., No.2, Pallavan Salai,
Chennai 600 002.
4. The Managing Director,
Metropolitan Transport Court,
No.1, Pallavan Salai, Chennai.
5. The Managing Director,
TNSTC Salem Tamil Nadu Ltd.,
No.12, Ramakrishna Road,
Sreerangapalayam, Salem 636 007.



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6. The Managing Director,
TNSTC Kumbakonam,
27, Railway Station New Road,
Kumbakonam, Thanjavur 612 001.
7. The Managing Director,
TNSTC Madurai, 91, Bye Pass Road,
TNSTC Head Office, Madurai 625 010.
8. The Managing Director,
TNSTC Tirunelveli T.N. Ltd.,
23/2, Thoothukudi Road,
Kattabomman Nagar, V.M.Chatham,
Tirunelveli.
9. The Managing Director,
TNSTC, 37, Mettupalayam Road,
Coimbatore 641 043.
10. The Managing Director,
TNSTC, Villupuram.
11. The Secretary,
Anna Thozhil Sangam Peravai,
275, Avvai Shanmuga Salai,
Teachers' Colony, Royapettah,
Chennai 600 014.
12. The Secretary,
Centre of Indian Trade Union (CITU)
No.27, Mosque Street, Chempauk,
Triplicant, Chennai 600 005.
13. The Secretary,
All India Trade Union Congress,
No.2/1, Kovour, Vaidhyathan Street,
Adikesavapuram, Chintadripet,
Chennai 600 002.



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14.The Secretary,
DMDK Trade Union,
No.125/7, Jawaharlal Nehru Salai,
100 Feet Road, Koyambedu,
Chennai 600 107.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare the call of strike by 11th to 14th respondents and its functionaries and its office bearers on 08.01.2024 or any other date in the State of Tamil Nadu as illegal, unconstitutional and consequently direct the 1st and 2nd respondents to take appropriate preventive measures from enforcing this strike call and to ensure life and liberty of the citizens.

For the Petitioner : Mr.P.R.Raman
Senior Counsel
for Mr.P.Magesh Nandhu

For the Respondents : Mr.J.Ravindran
Addl. Advocate General, assisted
by P.Muthukumar,
State Government Pleader, for RR 1 & 2,
by Mr.LSM.Hazan Fizal,
for RR 3 and 6, 8 and 9
by Mr.Gauthamaraj, for RR 4 and 7
by Mr.K.Raja for R-5
by Mr.M.Ashwin for R-10
: Mr.Vijay Narayan
Senior Counsel
for Mr.E.Balamurugan, for R-11
: Mr.Balan Haridas
for Mr.V.Ajay Khose, for R-12

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ORDER

(Made by the Hon'ble Chief Justice)

The writ petition is filed for declaration that the call of strike by 11th to 14th respondents, its functionaries and its office bearers on 08.01.2024 or any other date in the State of Tamil Nadu is illegal and unconstitutional. The petition seeks further directions to the 1st and 2nd respondents to take appropriate preventive measures from enforcing this strike call and to ensure life and liberty of the citizens.

2. We have heard Mr.P.R.Raman, learned senior counsel for the petitioner, Mr.J.Ravindran, learned Additional Advocate General, assisted by Mr.P.Muthukumar, learned State Government Pleader, Mr.LSM.Hasan Fizal, Mr.Gauthamaraj, Mr.K.Raja, Mr.M.Ashwin for respondent Nos.1 to 10, Mr.Vijay Narayan, learned Senior Counsel for respondent No.11 and Mr.Balan Haridas, learned counsel for respondent No.12.

3. After hearing the learned counsel for respective parties



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including the counsels for the State, it appears that the approach of all the parties is adamant.

4. All the learned respective senior advocates and learned advocates agree that the ensuing pongal festival is one of the largest festivals in the State of Tamil Nadu and lot of movement of people would take place during the said period. Even additional public transport facilities would be required to be provided by the State and the Transport Corporations. It is a period where the persons would be travelling throughout the State to visit their villages and native places. It is during this period the strike is called by respondents 11 to 14.

5. It is the case of respondents 11 to 14 that there are demands pending with the Transport Corporations. The conciliation proceedings are now pending before the Labour Commissioner. According to the petitioner, the strike is illegal and not countenanced by any law. Whereas, according to respondents 11 and 12, the notice of strike was given wayback on 19.12.2023 as per the provisions of the Industrial Disputes Act, 1947. However, the State/Corporations



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turned a blind eye to the same. In fact, the State has ignored it.

6. Mr.Vijay Narayan, learned senior counsel for respondent No.11 submitted that the respondent Unions were agreeable not to go on strike during the process of conciliation and they were only requesting for one demand to be met with, that is, payment of dearness allowance to the retired employees (pensioners). The same has been frozen from the year 2014. Even a reasonable request of depositing the dearness allowance amount for the month of January, 2024 is not considered by the State/Transport Corporations.

7. The workers/employees may have a right to go on strike as per the provisions of the Industrial Disputes Act. The legality of the said strike certainly would be decided at the appropriate time. However, it is also a matter of fact that the transport service is the essential public utility service. At the time the people of the State are celebrating one of the biggest festivals, the citizens of the State would be held to ransom and the movement of the society would come to a standstill. The same ought not to be the approach of respondents 11 to 14. Respondents 11 to 14 ought to have risen to



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the occasion for the public cause, that is, for the people of Tamil Nadu. At the same time, we also do not appreciate the stand of the State in not at all agreeing for any aspect of the matter. Even when a suggestion was given to the learned Additional Advocate General that whether the State would pay adhoc dearness allowance of Rs.2,000/- (Rupees two thousand only) each to the retired pensioner (we are told there are 92,000 retired pensioners) and in case, the State succeeds, the said amount can be adjusted in the payment of pension and the same may be paid without prejudice to the rights and contentions of the State, the learned Additional Advocate General did not agree for the same.

8. It is in the aforesaid facts, we say that the stand of the State as well as respondents 11 to 14 does not appear to be reasonable for the benefit of the people at large.

9. *Salus Populi Suprema Lex* (welfare of the people at large is the supreme law). Considering the immense hardship that the society would be subjected to in the absence of public transport service during the pongal festival, we expected respondents 11 to 14 to rise



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to the occasion and defer their strike at least upto 19th of January, when the date is fixed in the conciliation proceedings.

10. To provide the facility of transport service throughout the State is the responsibility of the State. In light of that, the State would be within its right to take all possible legitimate steps as may be permissible under law in case the illegal activities are resorted to by the employees. The respondents 11 to 14 are also expected not to proceed ahead with the strike at least till 19.01.2024.

11. At this stage, learned counsel for respondent Nos.11 and 12 submits that the members of the respondents 11 and 12, for the interest of the people at large and in view of the pongal festival, would suspend the strike call till 19.01.2024 and would report to their duties by tomorrow (11.01.2024) itself. Mr.R.Y.George Williams, learned counsel who is present in Court, submits that he represents for Nethaji Pokkuvarathu Thozhilalargal Pathukappu Thozhil Sangam, Coimbatore, and that the members of the said Sangam would also report to their duties by tomorrow. The members of respondents 13 and 14 shall also report to their duties by tomorrow. The



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respondents 1 to 10 shall allow them to report for their duties. The learned Additional Advocate General submits that it is not in the contemplation of respondents 1 to 10 to take any action against the members of respondents 11 to 14 and/or any other Sangam for the strike they had initiated in view of the fact that they are reporting to their duties.

12. It is submitted that the conciliation proceedings is fixed on 19.01.2024 before the Labour Commissioner. The parties may appear on the said date.

The writ petition stands disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

10.01.2024

Index : Yes/No

Neutral Citation : Yes/No

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Secretariat, Chennai 600 009.
2. The Additional Chief Secretary
to Government, Transport Department,
Chennai 600 009.



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