



W.P.No.26577 of 2004

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.26577 of 2004

Kovai Periyar Mavatta Dravida Panchalai
Thozhilalar Munnetra Sangam (Regd.No.2658)
Rep by its General Secretary,
No.69, Tatabad III Street,
Coimbatore – 641 012.

...Petitioner

Vs.

1.State of Tamil Nadu
rep. by Commissioner of labour,
DMS Compound, Chennai – 6.

2.The Management of K.Parthasarathy Spinning Mills,
rep.by its Director,
Pallipalayam, Udumalpet Taluk,
Ganapathypalayam – 642 122.

3.Sri Senthil Mills Limited,
rep.by its Director,
Pallipalayam, Udumalpet Taluk,
Ganapathypalayam – 642 122.

4.Sumukha Synthetics (Lessee of K.Parthasarathy Spinning Mills)
rep by its General Managers,
Udumalpe Taluk, Ganapathypalayam – 642 122. ...Respondents
[R4 impleaded as per order dt 19.02.2008 in M.P.No.269 of 2008
in W.P.No.26577 of 2004 by NPVJ]



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of Mandamus to direct the 1st respondent to see that the 2nd respondent pays wages to the 49 workers mentioned in the annexure to Writ Petition and typed set and see the educational benefits are provided to their children.

For Petitioner : Mr.V.Ajoy khose
For Respondents : Mr.R.Surendran for R1
(Additional Government Pleader)
Mr.Anand Gopalan for R2

ORDER

This Writ Petition is filed by the petitioner Trade Union for Writ of Mandamus directing the first respondent namely the Commissioner of Labour, DMS Compound, Chennai, to ensure that the second respondent Management pays the wages to the forty-nine workers mentioned in the annexure to the Writ Petition and also the educational benefits to be provided to their children and to pass such further orders.

2.Mr.Ajoy Khose, the learned counsel appearing on behalf of the petitioner would submit that the prayer is to pay them the wages and benefits as per the 12



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(3) settlement arrived at between the workmen and the management. In the event of this Court taking a view that the Writ Petition is not maintainable, they must be permitted to approach the appropriate Labour Court concerned to raise a dispute and the period spent in the Writ Petition should not be viewed as delay and laches.

3.Mr.Anand Gopalan, the learned counsel appearing on behalf of the second respondent would submit that with reference to the period in question the Union itself was leased to fourth respondent and it is the fourth respondent who was liable to pay the wages. Upon the submission made by the second respondent already the fourth respondent namely the Sumuka Synthetics was also impleaded and was also subsequently impleaded in the Writ Petition and they have to only answer the prayer made by the petitioner union. When the impleading petition was filed in W.P.M.P.No.269 of 2008, the proposed fourth respondent also filed a counter.

4.In the counter affidavit, it is mentioned that they have entered into a license agreement with the second respondent to run the mill from 26.06.2007. It is further averred that they have agreed to employ the workmen of the mill on the



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same rate of wages as they were getting under the third respondent and they were also willing to negotiate and arrive at a settlement with the workmen for a revised wage. Accordingly, in August, 2007, the fourth respondent entered into a settlement with 81 workmen giving them increase in wages in consideration of the said increase, they have agreed that they will not make any demand or raise any dispute based on any of the previous settlements or awards during the currency of the settlement. The same is also recorded.

5.Today, when the matter came up for hearing there was no representation on behalf of the fourth respondent. Considering the over all facts and circumstances of the case, the prayer in the Writ Petition as such before this Court is not maintainable and if at all, the petitioner is aggrieved the petitioner ought to have approach the appropriate forum for redressal of their grievance for violation of the settlement entered into between the workmen and the management. Therefore, with such liberty be given to the petitioner, if they still feel that any of their grievance still survives to approach the appropriate forum and as and when they approach the forum, the period spent in the Writ Petition, that is, from 14.09.2004 upto till date alone, that cannot be held against them for the purpose of delay and laches. Accordingly, this Writ Petition is dismissed as not maintainable.



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Neutral citation : Yes/No

To

The Commissioner of labour,
DMS Compound, Chennai – 6.

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