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W.P.No.3311 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3311 of 2010

Asia Tobacco Company Workers Union
(Registration No.395/DRP)
Represented by its General Secretary
35, Rajaji Nagar
SIPCOT Industrial Complex
Hosur – 635 126.

.. **Petitioner**

Vs.

1.Commissioner of Labour
DMS Complex
Teynampet
Chennai – 600 006.
2.Joint Commissioner of Labour (Conciliation)
DMS Complex
Teynampet
Chennai – 600 006.
3.Deputy Commissioner of Labour
Salem.
4.Assistant Commissioner of Labour
Salem.



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5.Labour Officer

Krishnagiri.

6.Hosur Asia Tobacco Company Employees Union

(Registration No.47/KRI)

represented by its General Secretary

35, Rajaji Nagar

SIPCOT Industrial Complex

Hosur – 635 126.

7.The Management of ATC Limited

35, Rajaji Nagar

SIPCOT Industrial Complex

Hosur – 635 126.

.. **Respondents**

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the first to fifth respondents relating to the order of the second respondent bearing No.C2/6374/2009 dated 12.02.2010 and quash the same and issue such further or other orders or directions.

For the Petitioner : Ms.Ramapriya Gopalakrishnan

For the Respondents : Mr.K.Tamil Vendan
Government Advocate for RR1 – 5
Mr.S.Sathish Kumar
for M/s Row & Reddy for R6
Mr.S.Shivathanu Mohan
and Ms.N.Swathy
for M/s Ramasubramaniam
Associates for R7



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ORDER

This Writ Petition is filed challenging the impugned order dated 12.02.2010 bearing reference No.C2/6374/2009 passed by the respondents 1 and 2, whereby the 6th respondent – Union was declared to be the majority Union. Even though several grounds are raised as against the order, it can be seen that the recognition as majority Union is as per the Code of discipline and the period of three years itself is now over. Therefore, if the issue raised on behalf of both sides with reference to the said order need not be adjudicated.

2. The prayer made by the learned counsel for the petitioner is that for the future years, let there be a system in place whereby the employees can vote by secret ballot, so that the majority Union can be recognised.

3. The learned counsel appearing on behalf of the 7th respondent / Management would submit that for now, the Management is dealing with two Unions and let not the settlements be in any manner derailed or held to be invalid.



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4. The Management is fine with the system of secret ballot and recognising the majority Union also.

5. The learned counsel appearing on behalf of the 6th respondent – Union would submit that firstly, the petitioner – Union is represented by a terminated employee and therefore, he has got no jurisdiction. Secondly, they have not filed returns for a brief period and were defunct and thereafter only they seem to have restored. Therefore, there is no *locus standi* at all for filing the petition. As far as the future years are concerned, he would submit that they are the only majority Union and the Management is unnecessarily showing favour to the petitioner – Union and in any event they will prove the majority, if necessary for recognition.

6. I have considered the rival submissions made on either side and perused the material records of the case.

7. Firstly, the period itself was over and nothing needed to be adjudicated



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with reference to the impugned order. Secondly, both the settlements entered into through the Unions will remain in force and be valid and will not be in any manner called in question by both the Unions on the strength of this order. The Management has rightly entered into settlements with both the Unions and the same shall be valid and in force in accordance with law. As far as the objection relating to maintainability is concerned, it is for the petitioner – Union to elect any office bearer of its choice. Even 1/3rd of its office bearers can be non-employees also and when the Union has since been regularised in the year 2009, the technical objections stand overruled.

8. As far as the future years are concerned, as laid down by the Hon'ble Supreme Court of India in ***Food Corporation of India Staff Union Vs. Food Corporation of India and Others***¹, whenever there is a question with reference to recognition of Unions arises, secret ballot is safer method to be followed. Accordingly, this Writ Petition stands disposed of on the following terms:-

(i) The election shall be conducted by the 5th respondent and the results to be notified to the Management and thereafter, the Management shall act as per the

¹ AIR 1995 Supreme Court 1344



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results in the election.

(ii) With reference to the current year and future years, in the presence of a representative from the Management and a representative from each of the Unions, the 5th respondent shall draw and notify the election process by mentioning the dates;

(iii) The Management shall accordingly, make arrangements for the Workmen to vote;

(iv) For the current year, upon receipt of the website uploaded copy of this order, the Management as well as the representatives of the Unions shall appear before the 5th respondent, within a period of three weeks. On such appearance before the 5th respondent, the 5th respondent shall draw the election plan and conduct election and notify the results as aforesaid;

(v) The entire exercise shall be completed within a period of eight weeks thereafter;

(vi) No costs.

17.12.2024

Neutral Citation : No

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To

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