



W.P.No.27997 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.27997 of 2015

G.Arul Xavier

....Petitioner

Vs.

1. The Chief Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai - 600 008.
3. The District Collector,
Chennai District,
Rajaji Salai,
Chennai - 600 002.
4. The District Collector,
Kancheepuram District,
Kancheepuram.
5. Binny Mills Ltd.,
No.1, Cookes Road,
Otteri, Perambur,
Chennai - 600 012.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,



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to issue a writ of mandamus, directing the respondent 1 to 4 to dispose the petitioner representation dated 28.07.2015 and consequently dispose the petitioner representation dated 28.07.2015 and consequently directing the respondent 1 to 4 to initiate proceedings against the 5th respondent management.

For petitioner	:	Ms.Udaya Bhanu
For R1,R3 and R4	:	Mr.Vadivelu Deenadayalan Additional Government Pleader
For R2	:	Mr.R.Thamaraiselvan
For R5	:	Ms.Sreenithi. V.M for Mr.T.S.Gopalan

ORDER

This writ petition is filed seeking for a mandamus directing the respondents 1 to 4 to dispose of the petitioner's representation dated 28.07.2015 and consequently to direct them to initiate proceedings against the fifth respondent management.

2. The facts in brief as submitted by the learned counsel for the petitioner are as follows:

2.1 The petitioner was employed at the fifth respondent management and is a union leader. The fifth respondent company, on



account of mis management ran into losses and accordingly several disputes arouse between the fifth respondent management and the employees/workmen. Several petitions were filed before this Court by the workmen and several directions were also given to the fifth respondent. The fifth respondent claiming the company as a sick company moved an application before BIFR and AIFR. A scheme was floated for renovation of the fifth respondent company and accordingly, directions were given to the fifth respondent in the year 2003 to reopen its mill at Padapai Village, Kancheepuram District for providing employment for nearly 1000 employees.

3. It is submitted by the learned counsel for the petitioner that the even after a lapse of many years, the fifth respondent though it had utilized the IDBI funds has not come forward to re-open the mill at Padapai Village, Kancheepuram District and on the other hand they started to sell the mill properties under the guise that it is a sick industry. 12(3) settlement was also entered between the fifth respondent management and the unions in respect of the terminal benefits to be paid to the retired employees and to the employees who took Voluntary Retirement.

4. It is finally submitted by the learned counsel for the petitioner



that the fifth respondent has not implemented either the directions issued by this Court in many writ petitions or 12 (3) Settlement or MoU proceedings entered and is not settling the legal dues of the ex- employees. Therefore, the petitioners have submitted a representation dated 28.07.2015 and the same was not considered. Thereby, sought for issuance of a mandamus.

5. The learned counsel for the fifth respondent has submitted a judgment of a Division Bench judgment in respect of the same issue in W.P.No1012 of 2017 dated 05.07.2017, wherein it is observed as follows:

“13. With the long lapse of time, the company seems to have come out of red by settling the dues of the workman and labours as well as the secured creditors and its sickness character ended by the declaration on the learned single judge in the writ petition filed by the Management of the Company on 10th July 2005, wherein recording the terms of Memorandum of Understanding as quoted above, the company was held to have ceased to be a sick industrial undertaking with effect from 30th September 2005. Thereafter, the said company has undertaken its further own course of its business, with which this Court is not concerned. There is no subsisting legal right with the labour Union, appellants herein, to seek any such Mandamus/direction from the Court. If the Company itself wants to set up any such project on its own volition as a part of its ongoing business and even employ workman who may be a Member of these appellant Trade Unions, there is no restriction on



them.”

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6. Learned counsel for the fifth respondent submitted that lands have been given to the workers as per MOU and settlement arrived at between the parties, 12 (3) Settlement has also been complied with and the legal dues to the retired employees were also paid.

7. However, while contradicting the submissions made by the learned counsel for the fifth respondent, the petitioner counsel has submitted that there are still some pending issues as the issues of some of the workmen were settled by the fifth respondent management and many such issues are still pending to be considered.

8. The learned Additional Government Pleader appearing for the first, third and fourth respondent submitted that if specific time frame is granted by this Court the representations alleged to have been submitted by the petitioner will be considered.

9. While recording the same and on perusal of the entire records



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and the submissions by the parties, without going into the issue raised in the representation, this writ petition is disposed of directing the first, third and fourth respondents to consider the petitioner's representation dated 28.07.2015 and dispose of the same, as quickly as possible, at any rate not later than three months from the date of receipt of a copy of this order. In case if the representation of the petitioner is not found with the first, third and fourth respondents, then the petitioner is at liberty to file fresh representation and the same shall be considered for further course of action. No costs.

05.02.2024

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Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No

To:

1. The Chief Secretary to Government,

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