



W.P.No.37882 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.37882 of 2015

and

W.M.P.Nos.2 & 3 of 2015

1. CITU NLC Labour and Staff Union,
Rep. by its General Secretary,
Behind CBS, Block No.24,
Neyveli – 607 801.

2. M.Srinivasan

... Petitioners

Vs.

1. Government of India,
Ministry of Labour,
Shram Aur Rozgar Matralaya,
New Delhi.

2. The Regional Labour Commissioner (Central),
Office of the Regional Labour Commissioner,
No.14, Haddows Road,
Sastri Bhavan,
Chennai – 600 006.

3. Neyveli Lignite Corporation Limited,
Rep. by its General Manager (HR) / IR,
Neyveli Township,
P.O.Neyveli – 607 801.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the third respondent in Ref. No.CORP/HR/723/1220/2015 dated 03.11.2015 for deducting 6 days wage cut for participating in the strike from 20.07.2015 to 27.08.2015.

For Petitioners : Mr.V.Stalin
for M/s.Row and Reddy

For Respondents : Mr.F.B.Benjamin George for R3

No appearance for R1 and R2

ORDER

Heard Mr.V.Stalin the learned counsel for the Petitioners and Mr.F.B.Benjamin George, the learned counsel for the third respondent.

2. The petitioners have filed these writ petitions challenging the order of the third respondent in Ref. No.CORP/HR/723/1220/2015 dated 03.11.2015 for deducting 6 days wage cut for participating in the strike from 20.07.2015 to 27.08.2015.

3. Mr.V.Stalin, the learned counsel for the petitioners, submitted that the issue has already been covered in the earlier orders passed by this Court



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in W.P. No.17705/2023 which has been confirmed in the Writ Appeal in W.A.No.1771/2022 and hence this writ petition should be disposed in similar lines.

4. Mr.F.B.Benjamin George, the learned counsel for the third respondent, submitted that the aforesaid orders are not applicable to the case of the petitioner because they did not deal with the maintainability of the Writ Petition filed by the petitioner / Union as it is not the recognized Union of Neyveli Lignite Corporation. The learned counsel for the third respondent further submitted that though the petitioner's Union may be a registered Union, it cannot espouse the cause of all the workers of Neyveli Lignite Corporation; the petitioner Union had issued notice before the strike but the notice cannot be of any significance in view of the subsequent orders of this Court restraining the Union from proceeding with the strike; hence, the petitioner cannot lean on the notice and state that the notice would comply Clause 44 of the Standing Orders; the petitioner's best remedy would be by way of filing Industrial Dispute and it cannot be addressed by preferring a writ petition.



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4.1 The learned counsel for the third respondent further submitted that the notice is invalid for another reason that the notice ought to have been issued before 14 days of the commencement of the strike and the strike has commenced after six weeks from the date of notice; the time period contemplated for issuance of prior notice and observances of strike was not complied; despite the interim order restraining the petitioner from proceeding the strike, the strike was commenced and hence the respondent has filed a contempt petition in Cont.P.No.1616 & 1960/2015. The said petitions were closed on the submission of the Union that they did not conduct strike. So the learned counsel for the third respondent concludes the argument that if the petitioners are aggrieved, their appropriate remedy lies before the Labour Court and not by way of filing writ petitions.

5. On perusal of the records, it is seen that the judgment of the Division Bench of this Court in W.A.No.1771 of 2022 dated 12.07.2024, this Court has held if any order is issued without following the rules and the if the principles of natural justice are violated, the same can be challenged by way of filing a writ petition. For the sake of clarity, the relevant paragraphs of the said judgment is extracted hereunder:



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“ ... 9. Therefore, the contention of the appellant that notice is not necessary and they can straight away deduct wages under Clause 44 of the Standing Orders, is not an acceptable one. Once the principles of natural justice is violated and without following the rules, if any order is issued, the same can be challenged through writ petition. Therefore, in view of the above said reasons, the contention of the appellant that the Writ petition is not maintainable cannot be accepted.

10. In this context, the Writ Court in its order, elaborately discussed about the applicability of the Clause 44 of the Standing Orders and elaborately discussed about the strike notice as follows:-

"10. Incidentally, the strike notice was issued in conformity with the provision under Section 22(1) of the I.D. Act. It is true that the Standing Orders cannot be in derogation to the provision of the ID Act. But Clause 44 does not refer to the nature of strike or whether such a proposed strike is in violation of Section 22 or Section 24 of the ID Act. The issue is as to whether the strike is legal or illegal is a matter that requires adjudication and therefore claiming that the proposed strike is an illegal strike and thereby invoking Clause 44, is impermissible in view of the non applicability of the Clause. Thus, the proposed action of the third respondent dated 22.06.2013 and 24.06.2013, are not in conformity with Clause 44 and therefore, the petitioners are entitled to succeed".



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11. Therefore, in view of the above discussion, this Court is of the opinion that the Writ Court has passed a reasoned order in accordance with law and it does not warrant interference. Therefore, this Writ appeal has no merits and deserves to be dismissed.”

6. The above judgment is squarely applicable to the facts of the present case. Hence, I feel the writ petition should be disposed in the same terms of the above judgment.

7. Accordingly, this writ petition is allowed and the order of the third respondent in Ref.No.CORP/HR/723/1220/2015 dated 03.11.2015 is hereby quashed. No costs. Connected miscellaneous petitions are closed.

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Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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To:

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- 1.Ministry of Labour,
Government of India,
Shram Aur Rozgar Matralaya,
New Delhi.
2. The Regional Labour Commissioner (Central),
Office of the Regional Labour Commissioner,
No.14, Haddows Road,
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R.N.MANJULA, J.

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