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W.P.No.28894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.28894 of 2024

P.Ellan
General Secretary
Samsung India Thozilalar Sangam
Affiliated to CITU
21-B, Vilakadi Koil Street
Kancheepuram- 631 106.

.. **Petitioner**

Vs.

1.State of Tamil Nadu
Rep.by its Principal Secretary to Government
Ministry of Labour and Employment
Secretariat, Fort St.George, Chennai – 600 009.

2.The Registrar of Trade Union
Joint Commissioner of Labour – 2
D.M.S.Complex
Teynampet, Chennai – 600 006.

3.The Deputy Commissioner of Labour (Conciliation) – 1
Sriperumbudur, Kancheepuram District.



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4.Samsung India Electronics Pvt. Ltd.,
Plot No.P-1, M-5 and M-18, SIPCOT Industrial Park
Phase – II, Sunguvarchatram (P.O)
Sriperumbudur Taluk, Kanchipuram District,
Rep.by its Authorized Signatory
R.M.Thandayuthapani.
(R4 – impleaded as per order dated 22.10.2024
in W.M.P.No.32118 of 2024 in W.P.No.28894 of 2024)

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking
a Writ of Mandamus, directing the 2nd and 3rd respondents to take immediate
action on my application No.330350-250326 dated 25.06.2024 and register my
trade union “Samsung India Thozilalar Sangam” as per the provisions of the
Trade Union Act, 1926, and issue with the Certificate of Registration.

For the Petitioner	: Mr.N.G.R.Prasad, Sr.Counsel for Mr.S.Sivakumar
For the Respondents	: Mr.J.Ravindran, AAG Asst. by Mrs.M.Jayanthi, AGP for RR1 to 3 Mr.G.Rajagopalan, Sr.Counsel Asst by Mr.Niranjan Rajagopalan for R4

ORDER



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The petitioner – one *Ellan*, claiming himself to be the General Secretary of Samsung India *Thozilalar Sangam*, who further claims that the *Sangam* is affiliated to CITU has come by way of this Writ Petition, for a Writ of Mandamus, to direct the respondents 2 and 3 to take action on his application No.330350 – 250326 dated 25.06.2024 and to register the petitioner's trade union.

2. The case of the petitioner is that the petitioner and the other members of the proposed trade union are working in the 4th respondent – Organization viz., Samsung India Electronics Pvt. Ltd., and though they have made an application, no further action is being taken and the matter is kept pending and therefore, they are before this Court.

3. *Mr.N.G.R.Prasad*, the learned counsel for the petitioner would submit that it is the right of the Workman to form a trade union and therefore when they have made an application, the same has to be registered. The same does not contemplate any hearing of the Management or otherwise. Pointing to Section 7



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of the Trade Unions Act, 1926 he would submit that the power of the Registrar is only to call for any further information or to make any directions to the petitioner – *Sangam* and therefore, the Registrar of Trade Union, the 2nd respondent herein ought to have registered the *Sangam*.

4. *Mr.J.Ravindran*, the learned Additional Advocate General appearing on behalf of the respondents 1 to 3 would submit that the Registrar of Trade Union is yet to pass final orders. He will make an enquiry as per the Trade Unions Act, 1926 and if any objection is received from the Management, that will also be considered. He would submit that if appropriate time is granted by hearing both sides, the Registrar will pass orders on the application.

5. *Mr.G.Rajagopalan*, the learned Senior Counsel appearing on behalf of the 4th respondent – Management would submit that even though the Workmen have a right to form an association or trade union, they cannot use the name of the 4th respondent Organization – Samsung, which is a registered trade mark. Secondly, the applicable rules in the Company do not permit any political



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affiliation and when the proposed *Sangam* is said to be affiliated with CITU, which is a political organization, on that ground also there is an objection on behalf of the 4th respondent – Management. Further, he would submit that when the trade union itself is now only being formed, already the employees have gone on illegal strike and the matter is pending in conciliation. In view of the fact that these employees have taken the law into their own hands and resorted to illegal strike, they are not entitled for the indulgence of this Court to exercise the discretion under Article 226 of the Constitution of India, to issue a Writ of Mandamus.

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

7. The question of whether the strike was legal or not is a totally different issue on which this Court is neither called upon to decide nor this Court is making any observations with reference to the same. As far as the present Writ Petition is concerned it lies on a narrow campus of registering the trade union. The Trade Unions Act ,1926 is a self-contained code with reference to the

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registration of the Union. The petitioner claims that he made an application in No.330350 – 250326 on 25.06.2024. Once such an application is made the same has to be duly processed and orders have to be passed in accordance with law, more specifically as per the provisions of the above said Act by the 2nd respondent. Therefore, when it is the statutory duty of the 2nd respondent to pass orders, a Writ of Mandamus would be issued.

8. The contention of the learned Additional Advocate General is that they will follow the procedure as contemplated under the Law and they need ample time to dispose of the application of the petitioner.

9. Considering the said submissions, without going into the merits of any of the contentions raised by either party, the Writ Petition is disposed of with the following direction:-

(i)The 2nd respondent viz., the Registrar of Trade Union, Chennai, is directed to process the application bearing No.330350 – 250326 dated 25.06.2024, in the manner known to law and pass final orders thereof, within a period of six weeks from the date of receipt of a copy of this order;



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(ii)No costs.

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Neutral Citation : No

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To

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State of Tamil Nadu
Ministry of Labour and Employment
Secretariat, Fort St.George, Chennai – 600 009.

2.The Registrar of Trade Union
Joint Commissioner of Labour – 2
D.M.S.Complex
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D.BHARATHA CHAKRAVARTHY, J.,

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