



W.P.No.36003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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The Southern Railways Persons
with Disabilities Association,
(Sl.No.SRG/185/2022)
Rep. by its General Secretary,
A.Marimuthu,
having its office at
No.171/1, 1st Street,
North Thirumalai Nagar,
Villivakkam,
Chennai – 600 049.

.. Petitioner

Vs.

- 1.Union of India,
Rep. by its Chairman,
Railway Board, Rail Bhavan,
Raisina Road,
New Delhi – 110 001.
- 2.The General Manager,
Southern Railways,
NGO Main Building, Park Town,
Chennai – 600 003.
- 3.The Senior Personnel Officer,
Coordination, Head Quarters Office,
Southern Railways,
Chennai – 600 003.



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4.Union of India,
Rep. by its Secretary to Government,
Social Justice and Empowerment,
Room No.604, A-Wing, Shastri Bhavan,
New Delhi – 110 001.

.. Respondents

(R4 impleaded as per order dated
13.08.2024 in W.M.P.No.25313 of 2024
in W.P.No.36003 of 2023)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondents 2 & 3 in connection with the impugned order passed in No.P(S)/353/WP 19292/2023 and HC/MAS/MAR dated 08.12.2023 and quash the same and direct the respondents to grant recognition to the petitioner's Association under the Rights of Persons with Disabilities Act, 2016, within a reasonable time.

For Petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Vignesh Raj

For Respondents : Mr.R.Rajesh Vivekananthan
Deputy Solicitor General of India

ORDER

This writ petition has been filed challenging the proceedings of the respondents 2 & 3 dated 08.12.2023 and for a consequential direction to the respondents to grant recognition to the petitioners' Association.



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2.The case of the petitioner Association is that there are nearly 1500 members in the Association, who are differently abled and this Association was registered under the Tamil Nadu Societies Registration Act, 1995, on 06.07.2022. The further case of the petitioner is that the Association was formed with an aim and objective to promote and maintain organization of all the employees with disabilities working in Southern Railways and Integral Coach Factory (ICF).

3.The petitioner made a representation to respondents 2 & 3 seeking for recognition of the Association on 15.12.2022. On receipt of the same, the respondents 2 & 3 considered and rejected the representation and informed the petitioner Association that they cannot grant official recognition as per the existing policy. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The respondents 2 & 3 have filed a counter affidavit. They have taken the following stand:

“8.I submit that the Rights of Persons with Disabilities Act, 2016 (RPWD Act, 2016) does not stipulate any provision for the grant



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of 'Recognition' to any organization, and any assertion to the contrary is hereby refuted. The decision regarding the recognition of any association cannot be made lightly at the behest of such associations. The Ministry of Social Justice & Empowerment is the nodal Ministry with respect to the Rights of Persons with Disabilities Act-2016 as the same has been enacted by that Ministry to be implemented by the various Ministries / Departments of Government of India. Considering this, Ministry of Railways can not take unilateral decision for consideration of the request of the Association for recognition.”

5.The 4th respondent has filed an individual counter affidavit and the relevant portions are extracted hereunder:

“3.I submit that the Central Government has enacted the Rights of Person with Disabilities Act, 2016 which came into effect on 19.04.2017. As per Section 2(z) of the Rights of Persons with Disabilities Act, 2016,

“Registered Organisation”

means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental



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or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature.'

4.I submit that the Chapter IX (Section 49-55) of Rights of Persons with Disabilities Act, 2016 contains detailed provisions for registration of institutions for PWDs. The State Government has been empowered, vide Section 49 of the Act, to designate an authority as "competent authority" for all matters (example Application and grant of certificate, revocation etc.) related to registration.

5.I submit that the Department of Empowerment of Persons with Disabilities (DEPWD) is not an appropriate authority to grant recognition of any association / Registration under the RPWD Act, 2016.

6.I submit that according to the Central Civil Services (Recognition of Service Association) Rules 1993 (copy enclosed), recognition will be accorded by the Ministry / Department of an association on fulfilling the conditions prescribed in Rule 5(d)(i) of the rules in respect of the entire Ministry / Department. In the present case, Southern Railway may be the appropriate authority to grant recognition to the Petitioner association."

6.Heard the learned Senior Counsel for the petitioner and the



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learned Deputy Solicitor General of India for the respondents.

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7.The petitioner Association while submitting the representation had relied upon paragraph No.2510 of the Indian Railways Establishment Manual and Section 2(Z) of the Right of Persons with Disabilities Act, 2016 (for brevity, hereinafter referred to as the Act, 2016) and sought for recognition.

8.The respondents 2 & 3 have rejected the said representation on the ground that as per paragraph No.2510 of the Manual, only those Associations which are registered under the Indian Trade Unions Act will be recognized. In view of the same, the respondents 2 & 3 did not find any provision for recognition of the petitioner Association and accordingly, rejected the request made by the petitioner.

9.The petitioner Association having realized the mistake in quoting paragraph No.2510 of the Railway Manual, submitted a fresh representation dated 03.09.2024. In that representation, they have informed that paragraph No.2510 of the Railway Manual has been erroneously mentioned. It is further stated in the representation that the



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petitioner Association is registered under the Societies Registration Act and similar set of Associations which were registered under that Act like SC / ST Railways Employees Association, All India OBC Association, etc., have been registered under the same Act and they have been recognized by the Southern Railways. In view of the same, the petitioner Association has sought for recognition by the Southern Railways by considering the fresh representation made on 03.09.2024.

10.A careful reading of the Section 2(Z) of the Act shows that an Association can be registered with persons with disabilities under an Act of the Parliament or a State Legislature. In the case in hand, the petitioner Association has been registered under the Tamil Nadu Societies Registration Act, which is a State Legislation. The Southern Railways has considered the request made by many such Associations registered under the Societies Registration Act and granted recognition. For instance, the SC & ST Railway Employees Association, All India OBC Railway Employees Association, Federation of Railway Officers Association, etc., are Associations which are registered under the Societies Registration Act. They have been granted recognition. Therefore, the same yardstick must be applied while dealing with the



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fresh representation made by the petitioner seeking for recognition, on 03.09.2024. The respondents 2 & 3 must bear in mind that an Act has now given a special status to the differently abled persons and various judgments have been passed by the Hon'ble Supreme Court recognizing those rights and insisting for appropriate treatment for persons with disabilities in line with the objective under the Act. Therefore, if the representation made by the petitioner Association seeking for recognition satisfies the requirements, appropriate orders must be passed by the respondents 2 & 3.

11.In the light of the above discussion, this Writ Petition is disposed of with a direction to the respondents 2 & 3 to deal with the representation made by the petitioner Association on 03.09.2024 in the light of the above observations made by this Court and appropriate orders shall be passed within a period of six (6) weeks from the date of receipt of a copy of this order. No costs.

19.10.2024

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Index : Yes / No
Internet : Yes / No



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Neutral Citation : Yes / No

NOTE: Issue on 25.10.2024.

To

1. Union of India,
Rep. by its Chairman,
Railway Board, Rail Bhavan,
Raisina Road,
New Delhi – 110 001.
2. The General Manager,
Southern Railways,
NGO Main Building, Park Town,
Chennai – 600 003.
3. The Senior Personnel Officer,
Coordination, Head Quarters Office,
Southern Railways,
Chennai – 600 003.
4. Union of India,
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N.ANAND VENKATESH, J.

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