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W.P.No. 37892 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 37892 of 2024

and

W.M.P.Nos.40969 & 40970 of 2024

The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore - 641 001.

... Petitioner

Vs.

1. Joint Commissioner of Labour,
Coimbatore Labour Office,
Coimbatore - 641 018.
2. Coimbatore Labour Union, (AITUC),
Reg.No. 909/CBE,
20, Dhandapani Street, Palaiyur,
Pappanaickenpalayam,
Coimbatore - 641 037.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the entire records pertaining to the order passed by the Joint Commissioner of Labour, Coimbatore, the first Respondent herein in I.A.No.3 of 2023 in M.W.No.29 of 2018 dated 04.07.2024 and consequently quash the same as illegal and contrary to law



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For Petitioner : Mr.D. Ferdinand
For R1 : Mr.K.Tamilvendan
Government Advocate

ORDER

This writ petition is filed challenging the order made by the Joint Commissioner of Labour, Coimbatore made in I.A.No. 3 of 2023 in M.W.No.29 of 2018 dated 04.07.2024.

2. Mr.D.Ferdinand, the learned counsel appearing on behalf of the petitioner would submit that the application to receive the additional documents was filed very belatedly, after a delay of 1717 days and well after the trial had commenced. When it is the contention of the petitioner management that they are all contract labourers and primarily the contractor is only liable to pay the minimum wages, even after I.A.No. 6 of 2019 is allowed, even in the proof affidavit, the contractor is not mentioned as one of the respondents. In the impugned order, in spite of the allowing of the application, the said contractor is not at all shown as a party and therefore the impugned order is liable to be set aside.



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3. Under the Minimum Wages Act, the liability is both by the principal employer as well as the contractor. It is averred in the affidavit that earlier I.A.No. 6 of 2019 has been allowed. If that be the case, in all the documents including the I.A., the contractor should have also been shown as party. However, since the contractor has already been impleaded, it is for the contractor to raise any objections if he desired. As far as the present application is concerned, it is only to receive additional documents. At the stage of receipt of documents, no decision can be made. After all, an additional document is always subject to the arguments relating to the proof and relevancy. Such arguments can be taken at the time of enquiry, after the documents are marked.

4. As far as the objection relating to the commencement of trial is concerned, I am not accepting the submission made by the learned counsel for the petitioner inasmuch as the enquiry before the Minimum Wages Authority itself is summary in nature and therefore strict rules of trial are not applicable. When the workman wants to produce some additional documents, the same can definitely be looked into by the authority, subject to proof and relevancy.



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5. In view thereof, finding no merits and with the above observations and keeping open the right of the management to raise all objections relating to proof and relevancy of the additional documents, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

19.12.2024

Neutral Citation: Yes/No
nsl

To
Joint Commissioner of Labour,
Coimbatore Labour Office,
Coimbatore - 641 018.



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D.BHARATHA CHAKRAVARTHY, J.

nsI

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