



WP(MD)No.13928 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM:

THE HON'BLE MR.JUSTICE KRISHNANA RAMASAMY

W.P(MD)No.13928 of 2023
and WMP(MD)No.11754 of 2023

1.Management

Indusind Marketing & Financial Services Pvt. Ltd.,
Room No.122, First Floor, Sun Plaza,
Old Vo.19, New No.39, GN Chetty Road,
Chennai – 600 017
Rep. by its Chief Executive Officer

2.Vice President-HR

Indusind Marketing & Financial Services Pvt Ltd.,
Room No.122, First Floor, Sun Plaza,
Old Vo.19, New No.39, GN Chetty Road,
Chennai – 600 017

... Petitioners

Vs.

1.The Authority under TN shops & Establishment Act
Joint Commissioner of Labour,
Race Course Colony,
Bharathi Ula Street,
Madurai 625 002

2.M.Karthikeyan

... Respondents

PRAYER: Writ Petition is filed under Article 227 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the order dated 22.07.2022 passed by the first respondent in TNSE-7 of 2022 and to quash the same.



WP(MD)No.13928 of 2023

For Petitioner : Mr.Sai Prasad
For R1 : Mr.P.Thambi Durai
Government Advocate
For R2 : Mr.Karthikeya Venkatachalapathy

ORDER

This Writ Petition is filed for issuance of writ of certiorari to quash the order dated 22.07.2022 passed by the first respondent in TNSE-7 of 2022.

2. The learned counsel for the petitioner submitted that in the present case, the second respondent filed a condone delay petition in filing the appeal before the first respondent. While disposing the said condone delay petition without providing an opportunity to the petitioner to file a counter and to make his submission on merits, the first respondent has not only condoned the delay but also allowed the appeal filed by the second respondent by non-application of mind. Therefore, he would submit that there is defect in the decision making process on the part of the first respondent while passing the impugned order.



WP(MD)No.13928 of 2023

WEB COPY

3. The learned counsel for the second respondent would submit that in the order the first respondent has discussed about the merits of the petition and an opportunity has also been given to the petitioner but the petitioner failed to avail the opportunity and under such circumstances, the order came to be passed.

4. I have given my anxious consideration to the submissions made on either side and perused the materials available on record.

5. In the present case, there is no dispute that there was delay and delay condonation application is filed. While dealing with the delay condonation application, the first respondent ought to have condoned the delay and after providing opportunities, the appeal will have to be disposed of in the usual course. But in the present case, while passing order in the condone delay application, the appeal itself was allowed. When the first respondent was dealing with the condone delay petition, the appeal would not have been numbered



WP(MD)No.13928 of 2023

and taken on file.

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6. Therefore, this Court finds error in the decision making process on the part of the first respondent while disposing of the appeal, along with the condone delay petition, without providing any opportunity to the petitioner. Thus, the order of the first respondent is liable to be set aside. Accordingly, the order of the first respondent is set aside and the matter is remanded back to the first respondent. The first respondent is directed to take the appeal on record and decide the same on its own merits, after affording sufficient opportunities to the petitioner, within a period of six months from the date of receipt of copy of this order.

7. In the result, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

19.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
CM



WP(MD)No.13928 of 2023

WEB COPY

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The Authority under TN shops & Establishment Act
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WEB COPY



WP(MD)No.13928 of 2023

KRISHNANA RAMASAMY, J.

CM

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19.12.2024