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WP.No.2517/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 28.10.2025

PRONOUNCED ON 28.11.2025

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

WP.No.2517/2024

and

WMP.No.2758/2024

Hyundai Motor India Employees Union
rep.by its General Secretary, S.Gowrisankar
S/o.Sundarraaj,
Reg.No.3216/CNI, No.27, Mosque Street
Chepauk, Chennai 600 005.

.. Petitioner

Versus

- 1.The Commissioner of Labour
Office of the Labour Commissioner
DMS Complex, Teynampet
Chennai 600 006.
- 2.The Deputy Commissioner of Labour
[Conciliation-I], Plot No.PB2, SIPCOT
Campus, Near IOB Bank, Irunkattukkottai
Sriperumbudur Taluk,
Kancheepuram District-602 117.
- 3.Hyundai Motor India Ltd
rep.by its Management



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Plot No.H-1, SIPCOT Industrial Park
Irungkattukottai, Sriperumbudur Taluk
Kancheepuram District 602 105.

4.United Union of Hyundai Employees
rep.by its General Secretary
Mr.Sujith Kumar, Plot No.H-1
SIPCOT Industrial Park
Irungkattukottai, Sriperumbudur Taluk
Kancheepuram District 602 105. .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st and 2nd respondents to hold election to determine the relative strength of all the registered Trade Unions in the 3rd respondent Company by way of secret Ballot to be conducted under the overall supervision of the 1st and 2nd respondents.

For Petitioner : Mr.K.Elango for Mr.S.Sivakumar

For RR1&2 : Mrs.M.Jayanthi, AGP

For R3 : Mr.A.L.Somayaji, Senior counsel
for Mr.D.Abdullah

For R4 : Mr.V.Govardhanan



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ORDER

(1)The writ petition is filed for issuance of a writ of mandamus to direct the respondents 1 and 2 to hold election to determine the relative strength of all the registered Trade Unions in the 3rd respondent Company by way of secret Ballot to be conducted under the overall supervision of the 1st and 2nd respondents.

(2)The petitioner Union is a registered Union affiliated to CITU formed during 2007. The petitioner states that out of 2250 permanent employees of the 3rd respondent / Company, more than 60% are members of the petitioner's Union. According to the petitioner, the petitioner represents majority of the workers of the 3rd respondent/Company, but despite the same, the 3rd respondent entered into a long term settlement with the 4th respondent, which would end on 31.03.2024. The petitioner further states that since 2011, it had been submitting the Charter of Demands to the 3rd respondent/Company, but it failed to negotiate and recognize the petitioner Union. The petitioner states that it gave several representations to the 3rd respondent as also the respondents 1 and 2, to



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conduct election through secret ballot to determine the relative strength of the registered Trade Unions in the 3rd respondent/Company, but to no avail. The petitioner further states that as the 3rd respondent/Company failed to consider the demand of the petitioner's Union, the petitioner sent a strike notice on 16.12.2023, with a copy marked to respondents 1 and 2. The petitioner/Union states that despite its representations to the respondents 1 and 2 to hold elections by secret ballot to determine the relative strength of all registered Trade Unions, no action was taken and therefore, it was constrained to file the present writ petition for the aforesaid relief.

(3)The respondents 1 and 2 filed a common counter affidavit stating inter-alia that from the reply of the 3rd respondent/Management, they were given to understand that from the date of formation of the 4th respondent Union, more than 90% workmen employed in the 3rd respondent/Company were the members of the 4th respondent/Union. It was further stated that the Conciliation Authority, had as early as on 21.12.2023, informed the petitioner/Union that there was no provision either under the Industrial Disputes Act, 1947, or under the Trade Unions



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Act, 1926, for determination of relative strength of Trade Union by way of secret ballot. The respondents therefore submitted that the writ petition was devoid of merits since, the petitioner/Union was issued necessary advise stating that there was no enabling provision for election through secret ballot. The respondents 1, 2 and 5 therefore prayed for dismissal of the writ petition.

(4)The 3rd respondent/Company filed a counter affidavit stating that it was a Company registered under the Companies Act, 1956, with a Factory at Irungattukottai, and engaged in the manufacture of passenger cars. The 3rd respondent further stated that it is one of the largest automobile manufacturers in India, that it was providing employment to around 14,000 persons both directly as well as indirectly and that it was contributing to the nation's economy by earning foreign exchange revenue. The 3rd respondent stated that, the petitioner/Union, had initially presence in the industry in the year 2007, and thereafter the petitioner/Union instigated its members to indulge in large scale indisciplinary activities at work place causing serious breach of work and industrial peace. The 3rd respondent further stated that, the



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petitioner/Union, was resorting to repeated illegal strikes, considerable number of workmen decided to form a separate Union, resulting in the formation and registration of the 4th respondent in the year 2011. The 3rd respondent stated that, ever since its formation, the 4th respondent/Union remained the majority Union in the industry. The 3rd respondent further stated that before entering into long term settlement, it was an usual practice to verify the Union membership, to determine the majority Union. The 3rd respondent stated that, the 4th respondent availed the check off system by authorising the 3rd respondent to remit the Union subscription by deducting the same from the monthly salaries of the employees. The 3rd respondent in its counter affidavit, gave the membership details of the 4th respondent/Union at the time of the long term settlements entered into with the 4th respondent by way of a tabular column. The 3rd respondent further stated that it was constrained to lodge a complaint with the local police on 19.12.2023 against an imminent illegal strike by the petitioner/Union. The 3rd respondent further stated that on 12.09.2023, in WP.[CrI].No.26909/2023, it obtained an order from this Court for police protection in the event of



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strike by the petitioner/Union. The 3rd respondent stated that it was constrained to file a suit for permanent injunction in CS.No.6/2024, before this Court on 26.12.2024, since the police failed to take any action as per the direction of this Court. The 3rd respondent further stated that the said suit is pending. Meanwhile, the 3rd respondent permitted the 4th respondent to conduct its internal elections for election of its office bearers and the 4th respondent also conducted the election on 28.12.2023, under the supervision of the retired Joint Commissioner of Labour. On 04.01.2024, the 4th respondent informed the 3rd respondent about the appointment of the new office bearers. The 3rd respondent further stated that the members of the 4th respondent Union since 2011, were paying subscriptions from their monthly wages by way of check-off system and notwithstanding the same, the 3rd respondent directed the 4th respondent to furnish the voters' list and Union membership details for the purpose of verifying the membership of the 4th respondent Union. The 3rd respondent stated that on cross verification of the details furnished by the 4th respondent under the check-off system with the voters list bearing names and signatures of the individual workmen and members list of the



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4th respondent Union, it was found that out of the total 2223 permanent workmen, 2003 workmen were members of the 4th respondent Union, out of which, 1968 workmen voted in the internal elections of the 4th respondent Union for selection of its office bearers. The 3rd respondent further stated that the result of the verification was placed before the higher officials who accepted the status of the 4th respondent as the Union representing majority of the workmen. The 3rd respondent therefore stated that since the permanent workmen of the 3rd respondent/Industry had already exercised their right under the secret ballot system and opted to be the members of the 4th respondent Union in a democratic manner, there was no necessity to conduct a secret ballot to decide the majority Union. Therefore, the 3rd respondent submitted that the relief sought for in the writ petition was unjustified and there was no cause of action to file the writ petition.

(5) The 3rd respondent stated that the industries within the State of Tamil Nadu were governed by the Model Code of Conduct for ascertaining the majority status of the Union and as per the said Code, the procedure provided was verification method [check off system]. The 3rd respondent



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further stated that the petitioner Union and its Member Secretary had fabricated false documents, viz., list of names and signatures of the members found in pages No.139 to 204 of the paper book for the purpose of obtaining orders from this Court. The 3rd respondent stated that the criminal proceedings were initiated against the petitioner Union for fabrication and production of false documents and finding that a *prima facie* case was made out, the complaint was taken on file as CC.No.1103/2024. The 3rd respondent further stated that the writ petition itself was not maintainable since a mandamus could not be issued against a private party. The 3rd respondent further objected to the maintainability of the writ petition on the ground that the issue raised in the writ petition was pending adjudication in CS.No.6/2024 and since the Civil Court was the proper jurisdictional Forum to try the dispute between the parties, the prayer in the writ petition was obviously misconceived and against the facts and law. For all the above reasons, the 3rd respondent prayed for the dismissal of the writ petition.

(6)The 4th respondent filed a counter affidavit on similar lines of the 3rd respondent's counter. The 4th respondent stated that the writ petition was



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not maintainable both in law and on facts. The 4th respondent further stated that since there was no law governing the topic of election of majority Union by secret ballot, the writ petition filed against a private party, was not maintainable, more so, when the 4th respondent was not a State within the meaning of Article 12 of the Constitution of India. The 4th respondent stated that on the said legal grounds, the writ petition deserved to be dismissed in *limini*. On the facts of the case, the 4th respondent reiterated the submissions made by the 3rd respondent stating that it was the majority Union with more than 90% of the employees of the 3rd respondent/Company as its members. The 4th respondent stated that the question of secret ballot did not arise since the factual determination of the majority membership had already been conducted through a transparent manner of check off system by the 3rd respondent. Therefore, the 4th respondent prayed for dismissal of the writ petition.

(7)The learned counsel for the petitioner submitted that admittedly, in the 3rd respondent/industry, there was more than one registered Union and so, the question as to with whom the 3rd respondent should negotiate for entering into settlements, assumed importance and therefore, it was



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necessary to decide the majority Union by conducting a secret ballot. The learned counsel further submitted that the secret ballot method was the best method when compared to the verification method and therefore, prayed that a direction may be issued to the respondents 1 and 2 to hold election to determine the relative strength of the registered Trade Unions in the 3rd respondent/Company under the supervision of the respondents 1 and 2.

(8)The learned Additional Government Pleader appearing for the respondents 1 and 2, on the other hand, reiterated the submissions made in the counter affidavit.

(9)Mr.A.L.Somayaji, learned Senior counsel appearing for the 3rd respondent, relying on the judgment of this Court in ***K.V.Sridharan and Others Vs. S.Sundaramoorthy and Others [MANU/TN/1360/2008]***, and the judgment of this Court in ***Shanmugam, General Secretary, Labour Progressive Federation Vs. The Government of Tamil Nadu [MANU/TN/4051/2011]***, contended that the writ petition was not maintainable. The learned Senior counsel relied on the judgment of a Division Bench of this Court in the case of ***The Chief Executive,***



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Railway Employees' Cooperative Credit Society Ltd., and Others Vs.

The Commissioner of Labour-cum-Registrar of Trade Union and

Others [MANU/TN/3761/2017] in support of his submission that a

direction for conducting secret ballot could not be passed for mere asking. The learned Senior counsel also relied on certain other judgments in support of the contention that the petitioner had approached this Court with unclean hands and therefore, the writ petition on the said ground deserved to be dismissed.

(10) Heard both sides and perused the materials placed on record.

(11) The facts of the case are undisputed and they are not traversed for brevity's sake. This Court will directly embark on the issues raised in the writ petition.

(12) The petitioner claims to be the majority Union of the 3rd respondent/Company. The petitioner claims that 60% of the permanent workmen employed in the 3rd respondent/Company are its members. The petitioner further claims that the petitioner sent a representation to the 3rd respondent, on 18.05.2018, to conduct election to determine the relative strength of the registered Trade Unions in the 3rd respondent/Company,



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by way of secret ballot, pursuant to the request of 70% of the employees working in the 3rd respondent/Company.

(13)The principal objection raised by the learned counsel for the respondents pertains to the maintainability of the present writ petition. It is contended, relying upon the judgment of the Division Bench of this Court in ***K.V.Sridharan's case [cited supra]***, that the dispute pertains to the internal affairs of a private incorporated body and hence, cannot be examined under Article 226 of the Constitution of India. It is further submitted that since a Civil Suit in CS.No.6/2024 is already pending before this Court, between the private parties, the issues raised herein ought to be agitated and decided in the said suit rather than the writ proceeding. The Division Bench of this Court, in the aforesaid judgment at paragraph No.5, held as follows:-

"5.We, therefore, hold that all disputes relating to holding of election of such incorporated bodies, which are nothing but private bodies, cannot be challenged before the writ court. If there are disputes between the parties over such election, those disputes can be challeged, if so



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advised, before the appropriate civil court. Since we are of the view that the writ petition itself is not maintainable, this Court is of the opinion that no order can be passed in the writ petition on the dispute relating to the election of such Trade Union. It may be noted in this connection that these private bodies are not enforcing any statutory direction by filing such writ petitions inasmuch in the State of Tamil Nadu, there is no law relating to grant of recognition to a trade union, nor is there any law relating to holding of election of such trade unions. These matters are covered by general law and as such, the disputes in this regard should be settled by civil court."

(14) The Division Bench, in the judgment relied upon by the respondents, has categorically held that disputes relating to the conduct of elections of private bodies, which are essentially governed by General Law, must be resolved by Civil Courts. The Division Bench observed that if any dispute arises with respect to the elections or recognition of a Trade Union, the appropriate remedy is by way of civil suit. The Division Bench further emphasized that such bodies do not enforce any statutory direction by invoking writ jurisdiction. In the light of this authoritative pronouncement and in view of the fact that the 3rd respondent has already



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filed a suit in CS.No.6/2024 seeking permanent injunction against the petitioner/Union, this Court finds that the petitioner can very well agitate the issue in the said civil suit. Accordingly, the contention of the learned Senior counsel for the 3rd respondent that the writ petition is not maintainable, deserves due consideration.

(15)The respondents have further argued that the writ petition is not maintainable even on merits. On the legal question, as to whether the check-off system or secret ballot system ought to be preferred, the Division Bench judgment of this Court, as well as the Supreme Court in several cases, have held that no universal rule can be prescribed. The preferred mode depends on the factual matrix. Where elections had already been held or where majority status had been independently verified, the Court need not embark upon a fresh inquiry. In the present case, the respondents have already established that elections were already conducted and the 4th respondent was declared the majority Union. The claim of the petitioner that, it is the majority Union, cannot, therefore, be accepted, more so, when the 3rd respondent has verified the majority status of the 4th respondent by examining the voting pattern and the



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membership details. The records reveal that the 3rd respondent has specifically stated that an independent verification was undertaken, which disclosed that 1988 workmen constituting about 98.25% had cast their vote in favour of the 4th respondent/Union. Since the 3rd respondent has accepted the majority status of the 4th respondent based on the check-off system and voters' list, this Court finds no reason to interfere, particularly, when the petitioner seeks a fresh election merely on its assertion that it commands the majority. The prayer directing for a fresh election through secret ballot cannot be granted in the absence of any statutory mandate or compelling circumstance.

(16)The Division Bench of this Court, in the case of the ***Chief Engineer, Railways Employees' Cooperative Credit Society's case [referred to above]***, held as follows:-

"26.The expression used by the Hon'ble Supreme Court in the introductory paragraph of the FCI judgment that, the check off system has lost its appeal is not a ratio decedendi. It cannot have universal application in all inter union dispute irrespective of specific facts relating to the dispute. In Food Corporation of India Staff Union



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Vs. Food Corporation of India and Others [supra], the Supreme Court has issued direction for secret ballot on consent of the parties. In Management of Foxconn [India] Pvt Ltd., rep.by its Managing Director V. Podhu Thozhilalar Sangam, Kanchipuram and Others [supra], case the Division Bench deviated from the MRF United Workers Union rep.by its Secretary, Arakkonam Vs. Government of Tamil Nadu and Another [supra] judgment in view of peculiar fact situation, which has been stated in para 37 of that judgment which has been extracted earlier in this judgment. Thus, secret ballot shall be ordered if parties consent for it and if situation warrants and proved that check off system has lost its appeal. In the absence of either of the above situations, Court should allow the employer and the employees to follow the provisions of Trade union Act, Industrial Disputes Act, Regulations and the Code of Discipline governing the affairs of the Union. Court cannot venture upon substituting something not found in the Rule unless in extraordinary circumstances, in order to bring industrial harmony and not otherwise.

27.In the case on hand, the factual aspect as pleaded and narrated above, we find no material to infer check off



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system has lost its appeal. Except the 2nd respondent Union none other Union has sought for secret ballot. The verification method followed by the Society is in accordance to Regulation and Code of discipline and had been in vogue for decades. While so, without any strong reason to deviate from the settled procedure, just for the wish of the writ petitioners, Court cannot substitute a procedure, not specifically contemplated in law. Further, the claim of the new Union that it commands majority members could be very well proved through verification method itself and it is not necessary to undergo the exercise of secret ballot just for asking. It appears till date the new Union has not attempted to prove its membership by furnishing the applications of its members."

(17)Applying the ratio laid down by the Hon'ble Division Bench to the facts of the case, it is evident that the relief sought for by the petitioner cannot be entertained for mere asking. The 3rd respondent has categorically stated that the claim of the 4th respondent was verified under the check-off system and that the 4th respondent was indeed found to be the majority Union. It is significant to note that the petitioner/Union has not disputed

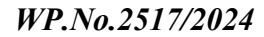


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this specific assertion of the 3rd respondent. This Court therefore finds no sufficient ground to intervene, particularly when the verification process stands unchallenged and the petitioner has not established any irregularity warranting interference.

(18)A further factual aspect, which requires serious consideration is the specific allegation made in the counter of the respondents that the petitioner/Union approached this Court with unclean hands. It is alleged that the petitioner/Union fabricated and produced false documents before this Court including a list of names and signatures of the workmen, corresponding to Document No.27, in the typed set. A criminal complaint was also filed against the petitioner Union and its General Secretary for offences punishable under Sections 191 and 192 of IPC before the learned VII Metropolitan Magistrate, George Town, Chennai, on 10.06.2024. It is stated that the learned VII Metropolitan Magistrate, George Town, Chennai, has taken cognizance in CC.No.1103/2024 and issued summons to the accused on 22.11.2024. Despite such grave allegations, the petitioner/Union has not filed any reply affidavit denying the same. Therefore, this Court is inclined to infer that the petitioner has



(19) Be that as it may, this Court finds that In the absence of any rebuttal, and solely on the basis of the petitioner's averments, this Court cannot presume that the petitioner represents the majority of the workmen or that it is aggrieved by the recognition extended by the 3rd respondent/Company to the 4th respondent Union. In view of the factual matrix of the case, the prayer of the petitioner/Union to conduct fresh election in the presence of the respondents 1 and 2 to determine the relative strength of the Unions, is rejected.

(20) In view of the above discussions, this Court finds no merit in the writ petition and accordingly, the writ petition is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Internet : Yes
Speaking Order : Yes / No
Neutral Citation : Yes / No



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