



WP.No.3443 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.08.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.3443 of 2022

Carborundum Universal Limited
Bonded Abrasives Division
Plot No.48, SIPCOT Industrial Complex
Hosur – 635 126
Represented by its
Managing Director

.. Petitioner

Versus

The Joint Director
Industrial Safety & Health
Hosur

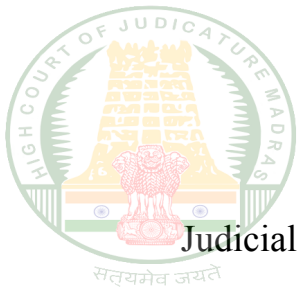
.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in communication No.E/83/2020 dated 06.01.2020 quash the consequential prosecution proceedings initiated by the Respondent taken on file by the Chief Judicial Magistrate, Krishnagiri in S.T.C.No. 1018 of 2021 further direct the Respondent to consider the replies dated 05.02.2020 and 21.02.2020 submitted by the petitioner.

For Petitioner : Mr.Anand Gopalan
for Mr.G.Anandikrishnan
For Respondents : Mr.K.M.D.Muhilan
Additional Public Prosecutor

ORDER

This petition has been filed seeking to set aside the show cause notice issued by the respondent dated 06.01.2020 and quash the consequential proceedings initiated by the respondent and taken on file by the learned Chief



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Judicial Magistrate, Krishnagiri in STC.No.1018 of 2021.

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2. Prosecution has been launched by way of a private complaint by the respondent. The crux of the allegations is that the petitioner has not appointed medical officer as required under the Factories Act. Similarly, they have not set up the occupational health center and also maintained the register to show that the employees were treated. Further, there was no records to show that the internal complaint committee meetings have been conducted regularly, fire hydrants have not been properly maintained and mock drills has not been conducted and further alleging various violations, prosecution has been launched.

3. It is the contention of the learned counsel for the petitioner that the show cause notice has been issued questioning certain acts. The petitioner has given proper reply indicating that all the defects pointed out was already addressed and properly being maintained, whereas, the action of the respondent in not passing an order before prosecuting the petitioner straight away on the basis of a show cause notice, the right of the petitioner to file an appeal under Section 107 of the Factories Act is denied and hence, the same is bad in law.

4. The learned Additional Public Prosecutor would submit that



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though the order(s) has not been passed, they are now prepared to pass an order and they may be granted permission to proceed further as per law.

5. Heard both sides and perused the materials placed on record.

6. On perusal of the case files, this Court finds that the petitioner has clearly given clearly explanations to the authorities concerned, whereas without passing any order, straight away prosecution has been launched, the same will take away the substantive right of the petitioner to file an appeal under Section 107 of the Factories Act. A Division Bench of this Court in the case of *Inspector of Factories, Vellore vs. Showa Engineering Ltd, Sholinghur* reported in 2007 (4) L.L.N. 828 had set aside the prosecution launched against the Showa Engineering Ltd, Sholinghur in C.C.No.3 of 2003 holding that when the final order has been passed based on the explanations contrary to the provisions of the Act and directed the parties to consider the explanations submitted by the petitioner therein within a period of four weeks from the date of receipt of a copy of that order and also directed the authorities to work out the remedy viz., seeking extension of time to comply with the lapses pointed out by the Inspector under Explanation 2 under Section 106 of the Factories Act.

7. Be that as it may, in the present case, as order has not been passed,



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the respondent is directed to pass appropriate order after visiting the premises once again within a period of three months from the date of receipt of a copy of this order. If the respondent is not satisfied with the explanations given by the petitioner, it is well open to the respondent to prosecute the petitioner as per law. Considering the nature of the proceedings pending all these years, the limitations set out in Section 106 of the Factories Act will not come in the way for further prosecution.

8. In view of the above, the private complaint in S.T.C.No.1018 OF 2021 on the file of the learned Chief Judicial Magistrate, Krishnagiri stands quashed. Accordingly, this writ petition stands allowed. No costs.

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dhk

Index :Yes/No
Internet :Yes/No

To,

1.The Joint Director
Industrial Safety & Health
Hosur

2. The Chief Judicial Magistrate
Krishnagiri



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