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W.P.No.31375 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31375 of 2015

Christian Medical College
Ida Scudder Road
Post Box No.3
Vellore – 632 004
Rep. by its Secretary

... Petitioner

Vs.

1.Joint Commissioner of Labour
6th Floor, DMS Compound,
Teynampet,
Chennai – 06.

2.CMC & Hospital Employees Union,
No.6, Valasa Street,
Vellore – 632 001.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with the impugned order ref No.Aa/421/2015 and quash the order dated 05.08.2015 passed by the first respondent.

For Petitioner : Mr.Sanjai
for M/s.S.Ramasubramaniam Assn.

For Respondents : Mr.K.Surendran for R1
Additional Government Pleader
Mr.S.T.Varadharajalu for R2



W.P.No.31375 of 2015

WEB COPY

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records connected with the order ref No.Aa/421/2015 and quash the order dated 05.08.2015 passed by the first respondent.

2.The case of the petitioner is that the Christian Medical College Vellore Association is a minority charitable educational society registered under the Societies Registration Act, 1860 in the year 1947. The Association runs the Christian Medical College Vellore, a well recognized, reputed, unaided, Christian minority, non-capitation fee educational institution. The second respondent raised dispute in the year 2011, wherein among other demands, they demanded that their service conditions should only be covered by a certified standing orders under the Industrial Establishment Standing Orders Act, 1946 and therefore asked the conciliation officer to refer the dispute. After receiving failure report from the conciliation officer, the Government of Tamil Nadu vide G.O.(D) No.312 dated 09.07.2012, refused to refer the demand regarding the standing orders.



W.P.No.31375 of 2015

WEB COPY

3.The further case of the petitioner is that the second respondent sent a letter dated 26.09.2013 to the Additional Labour Commissioner seeking the authority to direct the petitioner to get the certified standing orders. The first respondent treated the said letter as complaint from the second respondent and asked the petitioner to attend enquiry, pursuant to which the petitioner attended enquiry and submitted a detailed reply, however, without considering the same, the first respondent passed the impugned order holding that hospital is an industry covered by the provisions of Industrial Employment Standing Orders Act, 1946 and hence the Industrial Employment Standing Orders Act, 1946 is applicable to the petitioner. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that the very same first respondent who passed the impugned order has filed a counter affidavit before this Court stating that the first respondent on going through the judgement of the Delhi High Court reported in 2001 (3) LLN Page 562 was of the opinion that the matter is settled and passed the impugned order, however, the first respondent had the reference from Tamil Nadu Industrial Employment



W.P.No.31375 of 2015

WEB COPY

(Standing Orders) Act, 1946 as reprinted in June, 2012 by Madras Book Agency and hence it was a mistaken impression that 2001 (3) LLN Page 562 judgment had become final and was not aware at that point of time the order of the Hon'ble Division Bench of the Delhi High Court reversing the above judgment. The learned counsel further submitted that the first respondent needs to withdraw the impugned order.

5. Heard the argument advanced on either side and perused the materials available on record.

6. It is useful to extract hereunder the relevant portion of the counter affidavit filed by the first respondent hereunder:

"8. It is submitted that in the Grounds of Petition from (a) to (e) are denied. The petitioner refers the issue that it is an educational institution and thus not covered by the Industrial Establishment (Standing Orders) Act. The matter was before the 1st respondent as per the direction issued in G.O.Ms.No.311 dated 9.7.2012. Since the 1st respondent on going through the judgement single judge of



WEB COPY



W.P.No.31375 of 2015

the Hon'ble Delhi High Court reported in 2001 (3) LLN Page 562 was of the opinion that the matter is settled, and passed the impugned order. The 1st respondent had the reference from Tamil Nadu Industrial Employment (Standing Orders) Act 1946 as reprinted in June 2012 by Madras Book Agency and hence it was of the mistaken impression that the 2001 (3) LLN Page 562 judgement had become final and was not aware at that point of time, the order of the Division Bench of Delhi High Court reversing the above judgment.

The said mistake was not intentional but due to the above reason. The 1st Respondent submit that as per section 11 (2) of the Industrial Employment (Standing Orders) Act any mistake or accidental slip or omission can be rectified by the 1st Respondent himself. Hence the Writ Petitioner could very well approached the 1st Respondent under section 11(2) of the Act pointing out the 'slip' and the same could be rectified. However the petitioner has rushed before this Hon'ble High Court."



W.P.No.31375 of 2015

WEB COPY

7.Perusal of the counter affidavit filed by the first respondent reveals that the first respondent has admitted that the decision referred by him was over ruled by the decision of the Hon'ble Division Bench of Delhi High Court and that the mistake was not intentional and the mistake can be rectified by the first respondent himself, however the petitioner has rushed before this Court.

8.In view of the above, the writ petition is allowed. The impugned order dated 05.08.2015 passed by the first respondent is set aside. Liberty is granted to the second respondent to work out the remedy in the manner known to law. No costs.

07.03.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Joint Commissioner of Labour
6th Floor, DMS Compound,
Teynampet,
Chennai – 06.

6/7



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W.P.No.31375 of 2015

M.DHANDAPANI,J.
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W.P.No.31375 of 2015

07.03.2025