



W.P. No.17800 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.17800 of 2018
and W.M.P. Nos.21088, 21089 and 21187 of 2018

The General Secretary,
Bharathiya Kovai Mavatta Podhu Thozhilalar Sangam,
Vishwakarma Muztoor Bhavan,
Coimbatore - 641 006.

..
vs.

Petitioner

1. The Presiding Officer,
Labour Court, Coimbatore.

2. The Management of Suguna Agencies,
Nehru Nagar, Kalappati, Coimbatore - 641 035.

3. The Secretary,
Kovai Maavatta General Engineering &
Mechanical Workers Union (CITU),
Balan Nilayam, 3rd Street,
Ganapathi Pudur, Ganapathi -Post,
Coimbatore - 641 006.

.. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the entire records in pursuant to the impugned order dated 14.05.2013 in I.D. No.105 of 2002 on the file of the Labour Court, Coimbatore and quash the same and consequently order directing the 2nd respondent to pay back wages and all other attendant benefits to the employees in the petitioner union for the period



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of illegal closure pursuant to the order dated 07.02.2000.

For Petitioner : Mr. K. Sathiyamurthi

For Respondents : R1 - Court.

Mr. A.S. Balaji [for R2]

Mr. M. Murali,
Government Advocate [for R3]

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the 1st respondent in I.D. No.105 of 2002 dated 14.05.2013.

2. The short facts necessary to dispose the Writ petition are as follows:-

The Writ petitioner Union is operating among the workers employed in the Engineering and general industry of Coimbatore District. A branch of the petitioner union was formed at the respondent unit with active support of almost all the permanent workers. The 2nd respondent have all along been enjoying the fruits of workers' hard work by paying meagre wages. The workers were not extended with even the basic minimum benefits flowing from the statutory benevolent legislations. The 2nd respondent is the part of the larger Suguna Group of Industries, having nearly three dozen units under its fold. The principal activity of the said group is manufacturing and selling of electric motors, pumpsets, submersible pumps, compressors and various



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related items. The 2nd respondent practices the worst forms of unfair labour practices. More than 120 workers were regularly and continuously employed and was running with full orders. without any reason, in the year 1990, the management effected an artificial closure and shifted its operation to the Suguna Agencies and Sri Ramakrishna Corporation, which is also located adjacent to the Suguna Agencies and is very much interlinked. The workers, who have been working there, were coerced to settle their accounts with the active co-operation of the trade union functioning then. Out of them, nearly some 90 workers raised an industrial dispute before the Labour department and nearly 40 of them raised an industrial dispute before the Labour Court, Coimbatore. The Suguna Group of Industries made artificial cuts in the service of the workers and employed considerable number of contract employees and also the workers were subjected to all sorts of troubles, when they demanded or any venting of grievance emanated from them. While so, on 07.02.2000, the workers were terminated from services by stating that the unit is closed. Therefore, the Union raised an industrial dispute before the Conciliation Officer and the same was ended in failure. Based on the said failure report, the Government has referred the above matter for adjudication. After hearing both sides, the Labour Court dismissed the dispute. Challenging the said order, the present Writ petition is filed.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is the Union operating among the workers employed in the Engineering and general industry of Coimbatore District. While so, the 2nd respondent illegally closed the Unit and therefore, an industrial dispute was raised before the Conciliation Officer and the conciliation proceedings were failed. Thereafter, an industrial dispute was raised before the Labour Court, Coimbatore and the Labour Court, Coimbatore without analysing the evidence adduced on both sides, erroneously dismissed the petition. The Labour Court failed to consider that the 2nd respondent is part of the large Suguna Group of Industries and he is engaged in similar activity as that of Group's predominant activity and, the Unit alone has chosen to be formerly closed. The Labour Court failed to consider that the 2nd respondent Unit and other group units are functionally integral and are interdependent with each other. The respondent should have obtained prior permission from the appropriate Government before terminating the workers under the pretence of closure. The Labour Court failed to consider the mandatory provisions of Section 25-FFA of Industrial Disputes Act and no adequate and proper notices have been given. The Labour Court failed to consider that the 2nd respondent had falsely charged several workers and issued suspension orders



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and the same were revoked just before the termination on the ground of closure. The Labour Court failed to consider the evidence adduced on the side of the petitioner and therefore, the order passed by the Labour Court, Coimbatore is liable to be set aside.

4. The learned counsel appearing for the 2nd respondent would submit that Suguna Agencies was a partnership firm running a factory at Kallapatti Road, Coimbatore and had employed about 45 persons all inclusive of permanent, apprentices and Staff at the time of closure. The 2nd respondent factory is an independent unit having factory license, E.P.F. and Central Excise in the name of Suguna Agencies and is in no way connected to other industries as mentioned in the claim statement. The 2nd respondent was manufacturing piston pumps from the year 1989 and they were unable to run any industry before 1989 due to uncertainty in demand for their product in the market and hence they were forced to close the factory with effect from 07.02.2000. Already they issued notice under Section 25FFA of the Industrial Disputes Act to the Labour Secretary and Commissioner of Labour, Government of Tamil Nadu. In turn, the concerned Assistant Commissioner of Labour Conciliation III Coimbatore and CITU Union, in which the workers, who were members, were informed at the time of closure vide their



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notice dated 09.12.1999. The workers were also informed about the closure of the factory through letters dated 07.02.2000. Further, the 2nd respondent also sent the closure compensation payments and legal dues by post to all the workmen who were in the rolls of the factory on 07.02.2000. The workmen belonging to this petitioner Union received the said post and returned such cheques sent by the 2nd respondent. Therefore, the 2nd respondent had complied with all the procedures required for closure as per the Industrial Disputes Act. The workers belong to CITU Union and others accepted the genuine closure and settled their accounts. After conciliation failure, the Government referred this issue to the Labour Court. The Labour Court after considering the evidence adduced on either side, has correctly dismissed the industrial dispute. Therefore, the order passed by the Labour Court is in order. The present Writ petition is liable to be dismissed.

5. Heard both sides and perused all the available records.

6. In this case, according to the Writ petitioner, the closure of the Management is not in accordance with law and no notice was served to them and other factories in the name of Suguna Agencies are still functioning. Therefore, the closure is illegal. According to the 2nd respondent, due to



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uncertainty in demand for their product in the market, they closed the factory after following due procedures and after issuing notice under Section 25FFA of the Industrial Disputes Act.

7. On the side of the petitioners before the Labour Court, they examined WW1 to WW3 and marked Ex.W.1 to Ex.W.38 and on the side of the respondent, they examined MW1 and marked Ex.M.1 to Ex.M.58. The Labour Court, in its order, after referring the judgment of ***Pottery Mazdoor Panchayat vs. The Perfect Pottery Co. Ltd., and another reported in A.I.R. 1979 S.C. 1356 : 1979 Lab.I.C. 827***, came to the conclusion that the Labour Court cannot go beyond the terms of reference...The reference being limited to the question as to whether the closure was justified or not. Thereafter, referred the judgment of Hon'ble Supreme Court in ***M/s. Indian Hume Pipe Co. Ltd., vs. Their Workmen, 1968 (17) F.L.R. 145 (S.C.)***, and observed that it is not open to this Court to enquire into the motive to find out whether the closure is justified or not and also held that Section 25-O of the Industrial Disputes Act would not apply, since no evidence that more than 100 workers were employed in the 2nd respondent Unit. Therefore, the Labour court has discussed all the aspects and came to the conclusion that the industrial dispute has to be dismissed.



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8. This Court also perused all the records and the order of the Labour Court. On perusal of the records, it is seen that already notice was issued on 09.12.1999 and already the other Union workers were settled their amount and already the 2nd respondent unit was closed and notices were also issued, as contemplated under the provisions of Section 25FFA of the Industrial Disputes Act, to the workers and the same was also proved through Ex.W3 Notice. The 2nd respondent also sent closure compensation payments and legal dues and the members of the petitioner Sangam had only returned the said cheques. Therefore, there is no procedural violations in the closure of the Unit.

9. Moreover, the Writ petitioner failed to produce any document to show that more than 100 workmen were employed in the 2nd respondent unit and the 2nd respondent unit is related with other Units of Suguna Group. Per contra, the available documents show that the 2nd respondent factory is an independent unit having factory license, E.P.F. and Central Excise in the name of Suguna Agencies and no document was produced to show that it is connected with other industries. Therefore, the Labour Court has passed a reasoned order and it does not warrant any interference. However, the



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workers of the petitioner Union have not received the amount paid as closure compensation and returned the same to the 2nd respondent and the same was also not disputed by the 2nd respondent. Therefore, it is appropriate to direct the 2nd respondent to pay a sum of Rs.50,000/- each to the workers of the petitioner Union, who returned the cheques issued as closure compensation.

10. With the above said modifications, this Writ petition is partly allowed. The 2nd respondent is directed to pay a sum of Rs.50,000/- each to the workmen, who have not received the closure compensation. No costs. Consequently, the connected miscellaneous petition is closed.

09.01.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

P.DHANABAL, J.,

mjs

To

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