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WP No. 21676 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP Nos. 21676, 21682 & 21685 of 2021

AND

WMP Nos.22851, 22854 & 22861 OF 2021

1. M/s.SU Toll Road Private Limited
Attur Main Road, Mettupatti-village,
Valapady-Taluk, Salem-636 111, rep by
its Dibyadyuti Bera

Petitioner(s)

Vs

1. The Regional Labour Commissioner
(Central)
Ministry of Labour and Employment,
Government of India, Sastri Bhavan 5th
floor, Haddows Road, Nungambakkam
Chennai-600006

2.Tamil Nadu General Workers Union
Rep by Deputy General secretary
K.Karal Marks, No.2/1,Kovur
Vaithiyathan street, Chintadripet,
chennai-600002



WP No. 21676 of 2021



Respondent(s)

WP No. 21685 of 2021

1. M/s.HK Toll Road Private Limited
Project Office.KM 87 plus 500
NH7,Krishnagiri Toll Plaza, Kottapetta
village, Krishnagiri -635001 rep by its
Dibyadyuti Bera

Petitioner(s)

Vs

1. The Regional Labour Commissioner
(Central)
Ministry of Labour and Employment,
Government of India, Sastri Bhavan 5th
floor, Haddows Road, Nungambakkam
Chennai-600006

2.Tamil Nadu General Workers Union
Rep by Deputy General secretary
K.Karal Marks, No.2/1,Kovur
Vaithiyathan street, Chintadripet,
chennai-600002

Respondent(s)

WP No. 21682 of 2021

1. M/s.NK Toll Road Limited
Project Office.Rasampalayam Toll
Plaza, Keerambur post, Namakkal
637207, rep by its Dibyadyuti Bera

Petitioner(s)

Vs



1. The Regional Labour Commissioner
(Central)

Ministry of Labour and Employment,
Government of India, Sastri Bhavan 5th
floor, Haddows Road, Nungambakkam
Chennai-600006

2. Tamil Nadu General Workers Union
Rep by Deputy General secretary
K.Karal Marks, No.2/1, Kovur
Vaithiyathan street, Chintadripet,
chennai-600002

Respondent(s)

WP No. 21676 of 2021

PRAYER

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent contained in the impugned order in Letter No.M.8/22 / 2021- B2, M.8/ 47/ 2020-B2, M.8/78/ 2019-B2 and M.8/6/ 2021-B2 dated 1.10.2021 issued by the 1st respondent directing the petitioner herein to maintain status-quo under section 33 of the ID Act 1947 and quash the same as illegal and unconstitutional

WP No. 21685 of 2021

PRAYER

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent contained in the impugned order in Letter No.M.8/22 / 2021- B2, M.8/ 47/ 2020-B2, M.8/78/ 2019-B2 and M.8/6/ 2021-B2 dated 1.10.2021 issued by the 1st respondent directing the petitioner herein to maintain status-quo under section 33 of the ID Act 1947 and quash the same as illegal and unconstitutional.



WP No. 21682 of 2021

PRAYER

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent contained in the impugned order in Letter No.M.8/22 / 2021- B2, M.8/ 47/ 2020-B2, M.8/78/ 2019-B2 and M.8/6/ 2021-B2 dated 01.10.2021 issued by the 1st respondent directing the petitioner herein to maintain status-quo under section 33 of the ID Act 1947 and quash the same as illegal and unconstitutional.

For Petitioner(s) in Mrs.R.Maheshwari
all the Writ Petitions:

For Respondent(s) in Mr.M.Karthikeyan For R1
all the Writ Petitions: Mr.K.Arunagiri For R2

COMMON ORDER

(1)The writ petitions are filed for a writ of certiorari, to quash the order of the 1st respondent dated 01.10.2021, directing under Section 33 of the ID Act, the petitioners herein to maintain status-quo and to quash the same as illegal and unconstitutional.

(2)The issues raised in these writ petitions are common and therefore, they are disposed by this common order.

(3)The petitioners in the writ petitions are Companies registered under the Companies Act, 1956. The petitioners are Special Purpose Vehicles [SPVs]



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entrusted with the Design, Engineering, Finance, Construction and Maintenance of Salem-Ulundurpet section of NH-68 [WP.No.21676/2021] ;

Namakkal-Karur section of NH-7 [WP.No.21682/2021] ; and Hosur-Krishnagiri section of NH-7 [WP.No.21685/2021] on Built, Operate and Transfer Basis [BOT] by the National Highways Authority of India [NHAI].

The petitioners state that they, as Concessionaires, invited tender for engaging the services of Contractors on contract basis for handling toll operations and other allied works at the Toll Plazas. The petitioners state that the Contractors engaged by them, employed employees to carry out functions entrusted by the petitioners. The petitioners further state that the salary and other benefits to the employees were paid by the Contractors and the petitioners had absolutely no employer-employee relationship with the employees of the Contractors. The petitioners further state that at the time of expiry of contract with the Contractors, the employees of the Contractors raised a dispute before the 1st respondent, the Regional Labour Commissioner and during Conciliation proceedings, the 1st respondent invoking Section 33 of the ID Act, passed an order on 01.10.2021, directing the petitioners to



provide employment to the employees of the Contractors. The petitioners state that the said direction of the 1st respondent was contrary to and in violation of Section 12 of the Industrial Disputes Act, which contemplates only conciliation efforts by the 1st respondent and not adjudication of the dispute. Aggrieved by the order passed by the 1st respondent, the petitioners filed the above writ petitions for the aforesaid relief.

(4) No counter has been filed by the respondents.

(5) The learned counsel for the petitioners submitted that the impugned order of the 1st respondent was *ex-facie* illegal and liable to be set aside as it was in clear contravention of the order passed by this Court in WP.[MD].No.7690/2020 and also against the provisions of Section 12 of the ID Act. The learned counsel for the petitioners further submitted that the petitioners are similarly placed as that of the 4th respondent in WP.[MD].No.7690/2020. The learned counsel, placing heavy reliance on the aforesaid judgment of the Madurai Bench of this Court, submitted that the said judgment squarely applies to the facts of the present cases and hence, submitted that the writ petitions deserve to be allowed.



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

(7) The facts narrated above are undisputed and the only question to be decided is whether the impugned order passed by the 1st respondent is valid and sustainable?

(8) Before proceeding further with the matter, it will be pertinent to note that the petitioners herein and the 4th respondent in WP.[MD].No.7690/2020, are managed by the Principal Concessionaire, V.R. Reliance Infrastructure Limited. The 2nd respondent in the present writ petitions earlier filed a writ petition before the Madurai Bench of this Court in WP.[MD].No.7690/2020, praying for a "writ of mandamus forbearing the respondents No.3 to 5 from altering the service conditions of the members of the petitioner Union whose names are given in the Annexure to the writ petition in any manner including discontinuance of service or failing to provide employment in any manner pending conciliation before the 2nd respondent and further to direct the 2nd respondent to take up the conciliation proceedings without further delay, within the time period stipulated by this Court."



(9) This Court, vide order dated 09.09.2020, after discussing in detail, the contentions of the rival counsels, disposed of the writ petition as follows:-

"31. In view of the said stand respectively taken by the parties, having regard to those stand taken by them, this Court feels that the writ petition can be disposed of with the following orders :

a) That the employees were engaged only by the fifth respondent and the relationship between the fourth and fifth respondent is only contractual. Insofar as the service conditions of the employees belongs to the petitioner's union is concerned, neither the 1st and 3rd respondents nor the fourth respondent have any role to play.

b) Admittedly, the employees are under the fifth respondent and the fifth respondent admitted that they have been continuously engaged and will continue the same till the contract between the fourth and fifth respondent exists. Therefore, there can be no apprehension in the minds of the employees that they would be abruptly terminated or their service would be dispensed with, without adopting the due process of law.

c) However, it is open to the fifth respondent to take disciplinary action against any of the erring employee for the known violation and in that case this order would not stand for taking such disciplinary action by the fifth respondent against any one of the 43 employees. Insofar as the improvement of service conditions of employees is concerned, since the said issues has already been engaged before the second respondent Labour Commissioner, who



intend to speed up the conciliation proceedings by going to fix a new date of conciliation that issue can be taken care of by the second respondent by way of the conciliation proceedings.

d)It is made clear that till such conciliation proceedings is over or till the contract between the fourth and fifth respondent is over; or the new contract period is not given, which ever is earlier, the services of the employees at the hands of the fifth respondent shall not be terminated or dispensed with. Any of the pay arrears are due for the employees of the petitioner's Union during the pendency of this writ petition, despite they have been engaged and they render services to the fifth respondent, the same shall be paid by the fifth respondent at the earliest."

(10)From the aforesaid order, it is evident that this Court has clearly found that the members of the 2nd respondent Union engaged by the Contractors, were employees of the Contractors only and there was no employer-employee relationship between the Concessionaire and the employees of the Contractors. This Court also found that insofar as the service conditions of the members of the 2nd respondent Union were concerned, neither the Secretary to Government of India, nor the Project Manager, NHAI, or the Concessionaire had any role to play.



(11) Despite the aforesaid order of this Court specifically holding that the employees of the Contractors had no employer-employee relationship with the petitioners therein, who were also concessionaires, the 1st respondent passed the impugned order, directing the petitioners herein (concessionaires) to provide employment to the members of the 2nd respondent Union. As rightly contended by the learned counsel for the petitioners, the said direction cannot be sustained in the light of the categorical finding of this Court that there is no employer-employee relationship between the petitioners (concessionaires) and the employees of the Contractors.

(12) With regard to the 2nd contention of the petitioners' counsel, from a bare reading of the impugned order dated 01.10.2021 of the 1st respondent, it is evident that the 1st respondent has exceeded his jurisdiction under Section 12, of the Industrial Disputes Act. At this point, it would be pertinent to refer to Section 12 of the ID Act; the relevant portion of Section 12 of the ID Act, reads as follows:-

"12:-Duties of Conciliation Officers:-

[1]...

[2]...



[3]...

[4]If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, sent to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with the full settlement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at."

(13)Before proceeding further, it will be useful to refer to the judgments of the Calcutta High Court and Andhra Pradesh High Court reported in ***MANU/WB/0478/2002 [Nageswar Mondal and Others Vs. State of West Bengal and Others]*** and in ***MANU/AP/0596/2002 [M.Ganesh Vs. South Central Railway and Others]*** on the nature of power conferred under Section 12[4] of the Act.

(14)The High Court of Calcutta, in ***Nageswar Mondal's case [cited supra]*** held as follows:-

"13.....Hence from the statutory provision, it is abundantly clear without any ambiguity that the



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Conciliation Officer when has entertained an application raising the Industrial Dispute as filed by the present petitioners praying their inclusion in the Master Roll of the Mill as permanent workmen and reply of such application as made by the respondent No.4, was considered by him, it was mandatory upon him to submit a full report in terms of sub-section [4] of Section 12 of the said Act to the appropriate Government for their necessary decision. The Conciliation Officer under the statute never has been given any power to adjudicate the matter in the manner as has been done in the instant case by advising the Union for reference of the matter to the State Advisory Contract Labour Board. Hence, the impugned decision passed by the concerned Labour Commissioner is de hors of the statutory provision under sub-section [4] of Section 12 of the said Act....."

(15) So also, the Andhra Pradesh High Court, in ***M.Ganesh's case [cited supra]***,

held as follows:-

"7.In conclusion, we hold that the impugned direction issued by the 3rd respondent is one without authority of law. Therefore, with respect, we are of the considered opinion that the learned Judge is not justified in



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dismissing the writ petition on the ground that the conciliation proceedings are still pending without deciding the jurisdictional point raised by the appellant/petitioner. It needs to be noticed that even during the pendency of the conciliation proceedings, the 3rd respondent is not vested with any power under the Industrial Disputes Act, to issue such direction to the Railway Administration."

(16)The provisions of Section 12[4] of the ID Act, 1947, make it abundantly clear that the 1st respondent is not vested with any adjudicatory powers. Further from the above judgments it is evident that the jurisdiction conferred upon the 1st respondent, is limited to facilitating conciliation between the parties with a view to arrive at an amicable settlement of the dispute, and does not extend to rendering findings or issuing directions in the manner of an adjudication.

(17)By holding that there exists no concept of "concessionaire" in the ID Act, and by issuing consequential directions on that basis, the 1st respondent has clearly transgressed the limits of his statutory authority and acted in violation of Section 12[4] of the Act.

(18)It is further significant to note that, despite the production of the order of



this Court in W.P.(MD).No.7690 of 2020, wherein it was categorically held that the concessionaires had no employer-employee relationship with the employees of the Contractors, the 1st respondent, in patent disregard of the said order, proceeded to record a finding that the concessionaires under the Agent were only contractors and thereafter issued the impugned directions.

(19)Such an approach, in the considered view of this Court, is not only contrary to the express provisions of the ID Act but also amounts to clear infraction of the binding judicial pronouncement of this Court in W.P.(MD).No.7690 of 2020.

(20)Accordingly, this Court is constrained to hold that the impugned order is unsustainable both on the ground of lack of jurisdiction and for having been passed in defiance of the orders of this Court.

(21)This Court finds merit in these writ petitions. Accordingly, the **writ petitions are allowed and the impugned order of the 1st respondent dated 01.10.2021 is set aside.** No costs. Consequently, connected miscellaneous petitions are closed.

13-10-2025

AP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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(Central)

Ministry of Labour and Employment,
Government of India, Sastri Bhavan 5th
floor, Haddows Road, Nungambakkam
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N.MALA, J

AP

WP.Nos.21676, 21682 & 21685/2021

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