



W.P. No.24115 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.24115 of 2022

and W.M.P. Nos.23086 and 23087 of 2022

The Executive Director,
Bharat Heavy Electricals Limited,
Tiruchirappalli - 620 014.

.. Petitioner

Vs.

1. Union of India,
represented by Secretary to Government,
Ministry of Labour and Employment,
Shram Shakthi Bhavan,
Rafi Marg, New Delhi - 110 001.

2. The General Secretary,
BHEL Valaga Oppanda Thozhilalar Nala Sangam,
No.5, Dheen Complex, 1st Floor,
Thiruverumbur, Tiruchirappalli - 620 013.

3. The Administrator / Member -in-charge,
BHEL Complex Co-operative Labour Contract Society,
Kailasapuram, Township,
Tiruchirappalli - 620 014.

4. The Deputy Chief Labour Commissioner (Central),
No.26, A Wing, 5th Floor, Shastri Bhavan,
Haddows Road, Nungambakkam,
Chennai - 600 006.

5. The Regional Labour Commissioner (Central),
5th Floor, Shastri Bhavan, Haddows Road,
Nungambakkam, Chennai-600 006. .. Respondents



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PRAYER: The Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for records connected with the reference No.L-42011/108/2022-IR (DU) dated 27.05.2022 on the file of the Union of India, Ministry of Labour and Employment, New Delhi, the 1st respondent herein and to quash the same.

For petitioner : Mr. A.V. Arun

For Respondents :

For R1, R4 & R5 : Mr. V.T. Balaji,
Central Government

Standing Panel Counsel.

For R2 : Mr. K. Rajamohan

For R3 : Mr. Y. Prakash

ORDER

The Writ petition has been filed to quash the reference dated 27.05.2022 made in No.L-42011/108/2022-IR (DU) on the file of the Union of India, Ministry of Labour and Employment, New Delhi.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a Government of India Undertaking, having various manufacturing units including one at Tiruchirappalli. The petitioner company was registered itself as a Principal employer under the Contract Labour



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(Regulation and Abolition) Act, 1970 and obtained a Certificate of Registration for engaging contract labour in order to carry out various unskilled works through the contractors. Around 2200 contract labourers were engaged on an average by about 80 contractors in the petitioner company to carry out various non-core jobs. The 3rd respondent is one of the contractors engaged by the petitioner company and the 3rd respondent Society is governed by the Tamil Nadu Co-operative Societies Act and administered by a Special Officer / Administrator duly appointed by the Government of Tamil Nadu. The petitioner company has outsourced unskilled jobs like cleaning of factory, shop floors, loading and unloading, serving of water, snacks, tea and coffee, up keeping and cleaning of office furniture, horticulture activities, supply of tapals etc., to the 3rd respondent Society from time to time by award of works contract.

2.1. The 3rd respondent Society possess license under the Contract Labour (Regulation and Abolition) Act and delivers the services by engaging its members and employees as contract workmen in the petitioner company. During September 2019, some Trade Unions registered in respect of 3rd respondent Society / Contractor have formed an "All Union Joint Action Committee" and submitted a petition dated 23.09.2019 before the Deputy



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Chief Labour Commissioner (Central), Chennai, the 4th respondent herein claiming "equal pay for equal work" for all the members of 3rd respondent Society on par with regular employees of BHEL. The said petition was entertained by the Deputy Chief Labour Commissioner (Central), the 4th respondent and conducted the proceedings under Rule 25(2)(v)(b) of Contract Labour (Regulation & Abolition) Central Rules, 1971, where the representative of the petitioner company also attended. After hearing the preliminary objections, the 4th respondent has not proceeded further.

2.2. While so, the 2nd respondent Union along with other Trade Unions had simultaneously approached the Regional Labour Commissioner (Central), Chennai / the 5th respondent and submitted a separate petition dated 19.08.2021 claiming equal remuneration and the same was taken on record by the Regional Labour Commissioner (Central), the 5th respondent and started conciliation proceedings. Where the petitioner company raised its preliminary objections on the maintainability of the petition under the Industrial Disputes Act. Thereafter, the 2nd respondent transferred the above petition to the competent Authority/ the Deputy Chief Labour Commissioner, Chennai to deal with the petition under Rule 25(2)(v) of the Contract Labour (Regulation & Abolition) Central Rules. Thereafter, the petition submitted by

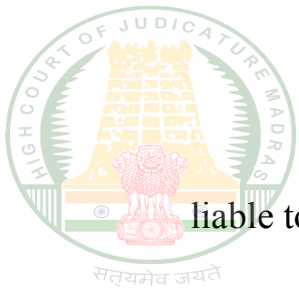


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the 2nd respondent Union and others were transferred to the Deputy Chief Labour Commissioner (Central), Chennai / 4th respondent for further action.

Despite the objections made by the petitioner company about 'maintainability' of holding conciliation proceedings, the matter was conciliated and referred for adjudication. Thereafter, the same was taken on file by the Central Government Industrial Tribunal for adjudication. Therefore, the reference made by the 1st respondent referring the dispute to the Central Government Industrial Tribunal is against law and the same is liable to be quashed.

2.3. The 1st respondent failed to consider that claiming equal remuneration on par with the permanent employees of BHEL and wage revision for the workmen of the 3rd respondent Society can be decided under Rule 25(2)(v) of CLRA and cannot be conciliated under the Industrial Disputes Act. Moreover there is no relationship between the petitioner and the 3rd respondent employees as employer and employee and the 3rd respondent Union are the Contract Labourers and noway connected with the petitioner company and they cannot seek any relief as against this petitioner. If at all they have any grievance, they have to approach the Authority under the Contract Labour (Regulation & Abolition) Central Rules and not by raising industrial dispute. Therefore, the order passed by the 1st respondent is



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liable to be quashed.

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3. The learned counsel appearing for the 3rd respondent would submit that the petitioner availed service of the workmen. The workmen are not the contract labourers and the contract entered into between the petitioner and the 3rd respondent is sham and nominal and in order to avoid payment to the workmen, they created the alleged contract and therefore, they are not covered under the Contract Labour (Regulation & Abolition) Central Rules. Therefore, the industrial dispute is maintainable. Based on the failure report, the 1st respondent has referred the matter for adjudication before the Central Government Industrial Tribunal and the same is pending. Therefore, the petitioner can very well approach the Industrial Tribunal by way of raising preliminary objections, but without doing the same, the petitioner has straight away approached this Court and therefore, the Writ petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. In this case, the petitioner challenged the reference made by the 1st respondent by referring the dispute before the Industrial Tribunal on the ground that the Tribunal has no jurisdiction and the matter is covered under



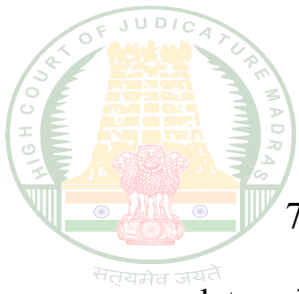
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Contract Labour (Regulation & Abolition) Central Rules and the appropriate Authority under Rule 25(2)(v)(a) & (b) of the Contract Labour (Regulation & Abolition) Central Rules, 1971. According to the respondent, they approached the concerned authorities under the Industrial Disputes Act and the matter has been referred to the Industrial Tribunal and the Industrial Tribunal has to decide the issue and once the industrial tribunal seized the matter, the petitioner has to approach the Industrial Tribunal by way of raising objections and the Tribunal can decide the matter and when the same is pending before the Tribunal, the petitioner without approaching the Tribunal by way of raising objections in respect of maintainability, straight away approached this Court.

6. The learned counsel appearing for the petitioner has relied upon the following judgments:-

1. ***Steel Authority of India Ltd. vs. Union of India and others reported in (2006) 12 Supreme Court Cases 233.***

2. ***Rahman Industries Private Limited vs. State of Uttar Pradesh and others reported in (2016) 12 Supreme Court Cases 420.***



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7. On a careful perusal of the above judgments, it is clear that determination of a question as to 'whether the contract labour should be abolished or not' is within the exclusive domain of the appropriate Government under Section 10 of CLRA Act to be determined as per the procedure detailed therein. Neither Labour Court under Industrial Disputes Act nor Writ Court can determine the said question. However, where a contention is raised that the contract entered into by and between the management and the contractor is a sham one and an industrial adjudicator would be entitled to determine the said issue. Further it is clear that the Government has to satisfy itself after applying its mind to relevant factors, factum of existence of industrial dispute before taking decision to refer the same for adjudication. In the case on hand, the appropriate Government after applying mind referred the matter to the Industrial Tribunal for adjudication. Therefore, the above said case laws are noway helpful to decide the case in favour of the petitioner.

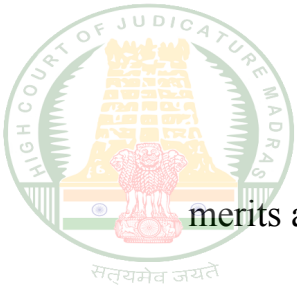
8. The learned counsel appearing for the 2nd respondent has relied upon the judgment in ***S.K. Verma vs. Mahesh Chandra and another reported in (1983) 4 Supreme Court Cases 214***. On a careful perusal of the above judgment, it is clear that the Hon'ble Supreme Court expressed its



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views that the public sector corporations will henceforth refrain from raising needless objections, fighting needless litigations and adopting needless postures. In the case on hand, the petitioner filed the Writ petition challenging the reference made by the appropriate Government.

9. Considering the above submissions made on either side and after perusing the records, this Court is of the opinion that once an industrial dispute is raised by the workman, the petitioner can very well approach the Tribunal by raising objections and without doing the same, straight away approached this Court to quash the reference order passed by the Government. In order to ascertain that whether the workmen are contract labourers and the contract is sham one or not, it needs elaborate evidence and this Court, by exercising power under Article 226 of Constitution of India, cannot decide the disputed facts. Therefore, the petitioner can approach the Industrial Tribunal, where the industrial dispute is pending and seek remedy and raise objections including the maintainability and thereafter, the Tribunal has to decide the case on merits in accordance with law. Even according to the petitioner, already the Tribunal, in connected case, decided that the industrial dispute is not maintainable, while so they can approach the Tribunal for appropriate remedy, by raising objections. Therefore, this petition has no



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merits and deserves to be dismissed.

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10. Accordingly, the Writ petition is ***dismissed***. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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

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represented by Secretary to Government,
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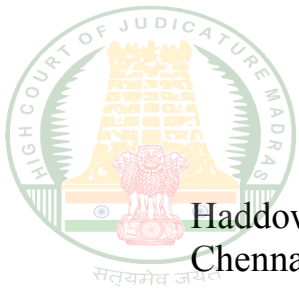
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P.DHANABAL, J.,

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