



WEB COPY

WP No. 36654 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

**WP No. 36654 of 2025
and WMP.No.40989 of 2025**

NIFCO Workers Committee
Rep. by its President P. Krishnan,
New No.50, Old No.109,
Mannoor Village, Valarpuram Coast,
Sriperumbudur Taluka,
Kanchepuram District-605 105

Petitioner(s)

Vs

1. The Chief Secretary,
Labour Welfare and Skill Development
A2 Department, Fort St. George,
Chennai-600 009.

2.The Management
NIFCO South India Manufacturing
Private Ltd.,
New No.50, Old No.109,
Mannoor Village, Valarpuram Coast,
Sriperumbudur Taluka,
Kanchepuram District 602 105.



Respondent(s)

PRAYER

to call for the records of the respondent in the Impugned G.O. (D) No.112 dated 28.02.2025 of Labour Welfare and Skill Development (A2) Department and quash the same and direct the respondent to refer the Industrial Dispute for adjudication before the Labour Court.

For Petitioner(s): Mr.S.Kumaraswamy

For Respondent(s): Mrs. M. Jayanthi, AGP, for R1

ORDER

The Writ Petition is filed for a Writ of Certiorarified Mandamus to quash the impugned G.O.(D).No.112, dated 28.02.2025 of Labour Welfare and Skill Development (A2) Department and direct the respondent to refer the Industrial Dispute for adjudication before the Labour Court.

2. The petitioner is a Workers Committee in the second respondent Company. While so, the petitioner sent a letter to the Conciliation Officer on 01.02.2023, requesting permanent status for five workers. Before the Labour Conciliation Officer, the petitioner claimed that since the five workmen were deemed to be permanent employees as per the model standing order of the 2nd



respondent/Company, they were entitled to pay on par with the other permanent workmen. The Management filed a counter on 14.05.2024 stating that the five workmen were not technicians and that they belonged to the Supervisory category. The petitioner on the other hand contended before the Conciliation Officer that the workmen were engaged in direct production and hence, they did not belong to supervisory category. The Conciliation Officer submitted a failure report to the Government on 02.09.2014 and thereafter, the Government issued the impugned G.O., rejecting the reference on three grounds, namely, Workmen can seek relief i) under Section 33(C)(2) of the I.D.Act, or ii) under the Tamil Nadu (Industrial Establishment Conferment of Permanent Status to Workmen) Act, or iii) raise an Industrial Dispute and get the rights adjudicated upon before the Labour Court. The petitioner, aggrieved by the impugned Government Order, filed the above Writ Petition.

3. Mrs.M.Jayanthi, learned Additional Government Pleader takes notice for the first respondent. Though notice is served on the second respondent, there is no representation for the second respondent. With the consent of both counsels, the main writ petition is taken up for final disposal.



WEB COPY

4. The learned counsel for the petitioner submitted that the first respondent failed to note the well settled legal principle that reference is the rule and the refusal an exception. In support of his submission, the learned counsel relied upon the judgment of this Court in the case of *the Secretary vs. Uzhaippor Urimai Iyakkam* in W.A.No.1516 of 2025, dated 12.06.2025. The learned counsel further submitted that the first respondent failed to note that even the Labour Court has jurisdiction to decide the applicability of the Tamil Nadu Industrial Establishments [Conferment of Permanent Status to Workmen] Act, 1981, and therefore, denial of reference on the ground that the petitioner ought to approach the authority under the 1981 Act, is unsustainable.

5. Heard the learned counsel for both sides and perused the materials available on record.

6.A perusal of the impugned G.O. discloses that the reference was denied on 3 grounds, viz., i) the workmen ought to approach the authority under 1981



Act for regularisation of their services, ii) the workmen can approach the Labour Court or the Government under Section 33 of the Act and iii) the Workmen had the right to raise a dispute and get the rights adjudicated upon by the Labour Court.

7. As rightly contended by the learned counsel for the petitioner, reference is the rule and refusal an exception. The Division Bench of this Court in W.A.No.1516 of 2015, dated 12.06.2025, held as follows:

*“4. We do not think we can go into those questions at this stage. The scope of Section 10 has been considered by this Court as well as the Hon^{ble} Supreme Court in various cases and this Court in **Shaw Wallace & Co., Limited -vs- State of Tamil Nadu** (1988 (1) LLJ 177 MAD), has held that the discretion that is available to the Government under Section 10(1) is circumscribed and it cannot be for reasons other than the ones that come within the provisos to Section 10(1). The Hon^{ble} Supreme Court has also repeatedly held that while considering as to whether the matter should be referred to the Industrial Tribunal or not, the discretion available to the Government is very limited and, reference is a*



rule, refusal would be an exception.”

8. It is pertinent to note that in the aforesaid case, one of the grounds raised was that the workmen could claim permanency under the Tamil Nadu Industrial Establishments [Conferment of Permanent Status to Workmen] Act, 1981, and therefore, reference to the Labour Court or the Industrial Tribunal was unnecessary.

9. The specific case of the petitioner was that the workmen were deemed to be permanent as per the model standing order and that they were entitled to pay on par with other permanent workmen. While so, it was most inappropriate to direct them to seek relief under the Permanency 1981 Act.

10. When the petitioner's specific demand was that the five workers were entitled to pay on par with the similarly placed workers and for confirmation of their services as per the model standing order, the respondent, in all fairness, ought to have referred the dispute to the Labour Court. By rejecting the



reference, the 1st respondent has effectively, donned the mantle of the Labour Court and arrogated to itself, the function of adjudication by prejudging the merits of the industrial dispute.

11. It is pertinent to note the judgment of the Hon'ble Supreme Court in the case of *Sarva Shramik Sangh vs. Indian Oil Corporation Ltd., and others* reported in AIR 2009 Supreme Court 2355. In that case, it was held as follows:

"13. Thus it can be safely be concluded that a writ of mandamus would be issued to the appropriate government to consider the refusal to make a reference, where (i) the refusal is on irrelevant, irrational or extraneous grounds; (ii) the refusal is a result of the appropriate government examining the merits of the dispute prejudging/adjudicating/determine the dispute; (iii) the refusal is malafide or dishonest or actuated by malice; (iv) the refusal ignores the material available in the failure report of the Conciliation Officer or is not supported by any reason."

12. This Court finds that the reasons stated by the respondent for refusing reference is not only irrelevant, evasive but amounts to adjudication of the issue. This Court, therefore, finds merit in the Writ Petition. Following the aforesaid judgment of the Supreme Court, this Court directs the first respondent to reconsider the matter afresh and take appropriate decision on the request for



reference within four weeks from the date of receipt of a copy of this order.

WEB COPY

13. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

12-11-2025

pvs/AP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Chief Secretary,
Labour Welfare and Skill Development
A2 Department, Fort St. George,
Chennai-600 009



WEB COPY

WP No. 36654 of 2025



N.MALA J.

pvs/AP

WP No. 36654 of 2025

12-11-2025