



WEB COPY



WP.No.32535 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.32535 of 2018

and

WMP.Nos.37747 & 37749 of 2018

Puducherry Fire Service Staff
Association, Regn.no.62/2015,
Rep By Its Secretary,
No.7-8, Moovendar Street,
Mullai Nagar,
Puducherry 605 005. ...

Petitioner

Vs.

1 Government Of Puducherry,
Rep By Its Chief Secretary, Secretariat,
Goubert Salai, Puducherry 1.

2 The Secretary (fire Service),
Government Of Puducherry, Secretariat,
Goubert Salai, Puducherry 1. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the concerned records from the 2nd respondent quash the order of the 2nd respondent dated 22.6.2018 bearing Order No.130/2018-Home as illegal, arbitrary and contrary to law.



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For Petitioner : Mr.Balan Haridas

For Respondents : Mr.M.Nirmalkuamr,
Government Advocate(Pondicherry)

ORDER

The petitioner has filed this writ petition under a Writ of Certiorari to call for the records pertaining to the order of the 2nd respondent dated 22.06.2018 in Order No. 130/2018, to quash the same, and to pass such other orders as the court deems fit.

2.Heard, Mr. Balan Haridas learned counsel for the petitioner, Mr.M.Nirmal Kumar, learned Government Advocate (Pondicherry) for the respondents and perused the materials available on record.

3. The petitioners association has been formed with the employees working in the Fire Service in the 2nd respondent and it has been formed in the year 1979 and it was initially part of confederation of Government Employees Federation.



In 2015, it was registered as an independent entity on behalf of the employees.

The petitioner's union has been placing various demands, which have not been sorted out so far. The 2nd respondent issued the impugned order dated 22.06.2018, banning the petitioner's association.

4. The learned counsel for the petitioner submitted that there is no reason to ban the association, as it would affect their fundamental rights under Article 19(1)(c) of the Constitution of India, which guarantees the right to associate. Furthermore, the order was passed without providing the petitioner an opportunity to make any representation.

5. The learned Government Advocate (Pondicherry) for respondents 1 and 2 submitted that the association has not been recognized by the government, and the members of the association frequently abandon their official duties, disobey orders from higher authorities, which has affected the decorum and public perception of the fire service. The petitioner claims that it is a registered association under the Societies Registration Act, 1860 (Act No.XXI of 1860), with registration Number in S.No. 62/2015.



6. If the members of the association engage in any unruly behavior affecting the image of the Fire Service Department in the public eye, it is up to the department to decide whether to recognize the association. In fact, the respondents also have the power to initiate disciplinary action against any member if they violate the code of conduct or disciplinary rules in the name of making demands on behalf of the members of the society. As the association has been registered under the Societies Registration Act, 1860, the power to cancel its registration lies with the same authority that registered it. The respondent could have addressed the appropriate authority under the Societies Act to initiate any action, such as canceling the registration, instead of usurping the power to cancel the association on its own.

7. Even though the petitioner claims that the right to associate is their fundamental right, no fundamental right is guaranteed without reasonable restrictions. If the members of the association abandon their official duties, disobey the orders of higher authorities, and damage the image of the public office, they cannot expect the government to recognize their existence. However, the respondent should have taken action through the appropriate authority prescribed under the Societies Registration Act.



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8. As the order to ban the association was passed by the 2nd respondent ultra vires his powers, the order is set aside insofar as it relates to banning the association. However it does not interfere with the lack of willingness on behalf of the respondents to recognise the petitioner's association. It is up to the respondents to address the Registrar of Societies if they feel it is appropriate to take steps to cancel the registration of the association

With this observation, the Writ Petition is **disposed of**. The order of the 2nd respondent dated 22.6.2018 bearing Order No.130/2018-Home, is set aside, so far it relates to banning the association. No costs. Consequently, the connected Miscellaneous Petitions are closed.

14 .02.2025

Index : Yes
Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



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R.N.MANJULA, J.
jrs

To

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