



W.P.(MD) No.7782 of 2024 etc. batch

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
29.04.2025	30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) Nos.7782, 7856, 7857, 7858, 7860 & 7861 of 2024
and
W.M.P.(MD) Nos.7104, 7150, 7149, 7159, 7161, 7153, 24039, 24063,
25745, 24334, 24050 & 24206 of 2024

W.P.(MD) No.7782 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-VS-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Arul Xavier

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.5 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

W.P.(MD) No.7856 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Suresh

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

WEB COPY **PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.6 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

W.P.(MD) No.7857 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Dhandapani

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.8 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

W.P.(MD) No.7858 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Senthilkumar

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.9 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

W.P.(MD) No.7860 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Ayyanan

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

WEB COPY **PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.10 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

W.P.(MD) No.7861 of 2024:

The District Manager
Tamil Nadu State Marketing
Corporation Limited
Madurai North
Madurai District

... Petitioner

-vs-

1.The Assistant Commissioner
of Labour (Enforcement)
The Tamil Nadu Industrial
Establishment
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai

2.Devadoss

... Respondents



W.P.(MD) No.7782 of 2024 etc. batch

WEB COPY **PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in C.P.S.No.7 of 2020, dated 15.03.2023 and quash the same as illegal.

For Petitioner : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1
Mr.V.Ajay Khose
assisted by Mr.A.Rahul for R2

COMMON ORDER

In all these batch of writ petitions, a common issue arose for consideration and as such, they were all heard together and are being disposed of by this common order.

2. The petitioner herein – Tamil Nadu State Marketing Corporation (TASMAC) has filed these writ petitions aggrieved by the orders passed by the respondent No.1 under Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (in short, “the Act, 1981”).



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3. Heard Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.H.Arumugam, learned counsel on record for the petitioner; Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondent No.1 and Mr.V.Ajay Khose, learned counsel assisted by Mr.A.Rahul, learned counsel on record for the respondents – workmen.

4. The only point that is urged before this Court by the learned Additional Advocate General is that the shops run by the petitioner herein do not fall within the meaning of the “Industrial Establishment” as defined under Sub-Section (3) of Section 2 of the Act, 1981 and therefore, the respondent No. 1 has no jurisdiction to entertain the applications filed by the respondents – workmen. While elaborating the said submission, learned Additional Advocate General contended that the respondent No.1 assumed jurisdiction on the premise that the shops run by the petitioner herein would fall within the ambit of Clause (e) of Sub-Section (3) of Section 2 of the Act, 1981.

5. According to the learned Additional Advocate General, in terms of Section 4 of the Shops Act, 1947, especially Clause (C) of Sub-Section (1) of Section 4 of the Shops Act, 1947, the establishments under the Central and



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State Governments are exempted from the purview of the Shops Act, 1947. As the definition of “Establishment” under Clause (6) of Section 2 of the Shops Act, 1947, was borrowed, the exemption contemplated under Section 4 of the Shops Act, 1947, also would apply and thereby, the application of the provisions of the Act, 1981, also stood excluded insofar as the petitioner herein is concerned.

6. Learned Additional Advocate General also further contended that a learned Division Bench of this Court in the case of ***V.Elayaperumal vs. S.B.I.Asaveerankudikadu Branch***, reported in ***2007 (2) L.L.N. 212***, came to the conclusion that the exemption contemplated under Section 4 of the Shops Act, 1947, would not apply for the establishments coming under Clause (e) of Sub-Section (3) of Section 2 of the Act, 1981, but, in the special leave petition filed thereagainst, the Honourable Apex Court in S.L.P.Nos.15948-15951 of 2007, by an order dated 14.09.2007, stayed the order passed by the learned Division Bench of this Court. Thus, he contended that the matter is sub judice before the Honourable Apex Court and therefore, the hearing of this matter is required to be deferred till the disposal of the matter pending before the Honourable Apex Court.



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7. On the other hand, Mr.V.Ajay Khose, learned counsel appearing for the respondents – workmen contended that the decision of the learned Division Bench of this Court in **V.Elayaperumal's** case (cited supra) was followed by another Division Bench of this Court in the case of **S.Selvam vs. Senior Manager-HRD, Air India Limited and others**, reported in **2020 SCC OnLine Mad 1178** and the said decision of the learned Division Bench of this Court was confirmed by the Honourable Apex Court in S.L.P.(C) Nos. 11418-11419 of 2020, by an order dated 11.04.2022 and therefore, there is no need to await the disposal of the matter, which is pending before the Honourable Apex Court.

8. Mr.V.Ajay Khose, learned counsel, also further contended that by virtue of Clause (e) of Sub-Section (3) of Section 2 of the Act, 1981, it is only the definition of “Establishment”, as defined under Clause (6) of Section 2 of the Shops Act, 1947, was borrowed virtually and the other provisions of the Shops Act, 1947 are not borrowed and therefore, the same have no application to the case on hand.

9. This Court has carefully considered the submissions made on either side and also perused the materials on record.



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10. There is no dispute on the factual aspects of the matter nor any arguments were advanced disputing the factual findings recorded by the respondent No.1 in the impugned orders. Therefore, the only legal issue that arises for consideration is as to whether the exemption contemplated under Clause (e) of Sub-Section (1) of Section 4 of the Shops Act, 1947, would apply to the proceedings under the Act, 1981, or not?

11. Under Clause (e) of Sub-Section (3) of Section (2) of the Act, 1981, an establishment, as defined in Clause (6) of Section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (in short, “the Shops Act, 1947”), was brought within the meaning of the “Industrial Establishment” under Sub-Section (3) of Section 2 of the Act, 1981. From the perusal of the Clause (e) of Sub-Section (3) of Section 2 of the Act, 1981, it is evident that it is only the definition of the “Establishment” as defined under Clause (6) of Section 2 of the Shops Act, 1947, was bodily borrowed and incorporated into the Act, 1981. If it was the intention of the Legislature to make applicable the other provisions of the Shops Act, 1947, also to the proceedings under the Act, 1981, the Legislature would have specified the same. But, in the absence of any such reference to the other provisions of the Shops Act, 1947, it is



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ununderstandable as to how the exemption contemplated under Section 4 of the Shops Act, 1947, can be applied while considering the claims made under the Act, 1981.

12. As contended by the learned counsel on either side, the issue is no more *res integra*. Insofar as this Court is concerned, the learned Division Bench of this Court in the case of **V.Elayaperumal** (cited supra) has examined the matter in detail and came to the conclusion that the exemption contemplated under Section 4 of the Shops Act, 1947, has no application to the proceedings under the Act, 1981 and held as under:

“17.In the instant case, the definition of establishment is virtually lifted from the Shops Act and has been incorporated in the Permanent Status Act. Therefore, the provisions of Cl.(c) of Sub-sec.(1) of S.4 of the Shops Act which exempt the establishments under the Central Government is of no consequence and the Permanent Status Act would continue to apply for such establishments unless and until exemption has been obtained from the State Government under S.9 of the Permanent Status Act. In C.V.Raman v. Bank of India [1988 (2) L.L.N.156] (vide supra), which was referred to by the learned Single Judge, the Court was concerned with the question as to whether the provisions of Shops



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Act would be applicable to the nationalised bank in view of exemption granted under S.4(1)(c). Therefore, the above decision has no relevance for the determination of the issue involved in the present case. Consequently, we hold that the provisions of the Permanent Status Act will apply to the banks including nationalised banks.”

13. The above decision of the learned Division Bench of this Court in the case of **V.Elayaperumal** (cited supra) was followed by another Division Bench of this Court in the case of **Selvam** (cited supra) and held as under:

“17.In effect, in Elayaperumal, the Court concluded that the definition of "establishment" in S.2(6) of the TN Shops and Establishments Act is incorporated by reference in the TN Permanent Status Act but not S.4 of the TN Shops and Establishments Act, which contains the exemption in respect of Central and State Government establishments. We respectfully concur. Air India Limited, the first Respondent herein, is also an entity that is majority owned and controlled by the Central Government. Therefore, the TN Permanent Status Act applies unless an exemption is obtained under Section 9 thereof. The admitted position is that no such exemption was granted. Hence, the Industrial Tribunal was justified in directing regularization. Thus, we conclude that the learned Single Judge was not



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justified in setting aside the Award of the Tribunal by largely relying upon the judgment in Umadevi. Consequently, the impugned order of the Writ Court is set aside and the Award of the Industrial Tribunal is restored.”

14. The above decision of the learned Division Bench in the case of **Selvam** is admittedly confirmed by the Honourable Apex Court, by an order dated 11.04.2022 in S.L.P.(C) Nos.11418-11419 of 2020 in the case of **AIR India Ltd. vs. S.Selvam & another.**

15. As the issue has already attained finality, by virtue of the above orders passed by this Court in **Selvam**'s case as confirmed by the Honourable Apex Court, this Court is of the considered view that there is no need for this Court to await for the disposal of the matter pending before the Honourable Apex Court in S.L.P.Nos.15948-15951 of 2007.

16. In the light of the above, the contention of the learned Additional Advocate General appearing for the petitioner that the exemption contemplated under Section 4 of the Shops Act, 1947, would also apply to the establishments coming within the meaning of the “Industrial Establishment”



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under Sub-Section (3) of Section 2 of the Act, 1981, deserves to be rejected.

Equally, the other contention that this matter has to await disposal of the matter pending before the Honourable Apex Court also deserves to be rejected in the light of the observations made herein above. In the light of the above, all these writ petitions are liable to be dismissed.

17. Accordingly, all these writ petitions are dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

30.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Assistant Commissioner
of Labour (Enforcement),
The Tamil Nadu Industrial
Establishment,
(Conferment of Permanent
Status to Workmen) Act, 1981
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

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PRE-DELIVERY COMMON ORDER

IN

**W.P.(MD) Nos.7782, 7856, 7857,
7858, 7860 & 7861 of 2024**

and

**W.M.P.(MD) Nos.7104, 7150, 7149,
7159, 7161, 7153, 24039, 24063,
25745, 24334, 24050 & 24206 of
2024**

30.04.2025