

W.P(MD)No.22975 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22975 of 2019 and
WMP(MD) No.19722 of 2019

M/s. Meyer Organic Private Limited.,
Rep by its Authorised Signatory,
Mr.V.Gopi,
A-303, Road No.32, Vaikal Estate,
Thane – 400 604.

... Petitioner

Vs

1.The Deputy Labour Commissioner,
The Appellate Authority/Deputy Labour Commissioner,
(Under the Tamilnadu Shops and Establishments Act),
O/o.The Deputy Labour Commissioner,
Trichirappalli.

2.K.RBalaji

...Respondents

PRAYER :Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, calling for the records of the impugned order, dated 05.10.2018, vide T.N.S.E.No.6 of 2014, passed by the first respondent and to quash the same.



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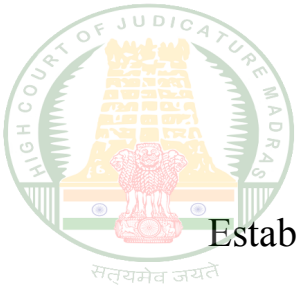


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For Petitioner : Mr.D.Selvanayagam,
For R1 : Mr.C.Venkatesh Kumar
Special Government Pleader
For R2 : Mr.M.Saravanan

ORDER

The petitioner Company is engaging in manufacturing and distribution of Pharmaceuticals products, in the name and style of "M/s.Meyer Organic Private Limited". The case of the petitioner is that the second respondent, who was working as Regional Sales Manager in the petitioner Company was terminated from service for certain irregularities, by order, dated 22.07.2014. Challenging the order of termination, the second respondent has preferred an appeal before the Appellate Authority, under the Tamil Nadu Shops and Establishments Act, 1947. The petitioner Company has filed a counter statement that the first respondent is not having any jurisdiction to entertain the appeal on the ground that the second respondent was discharging the managerial and administrative functions of the petitioner's Company and therefore, he does not come under the purview of the Tamil Nadu Shops and



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Establishments Act, 1947. However the Deputy Commissioner of Labour/Appellate Authority/the first respondent herein has entertained the appeal preferred by the second respondent and also set aside the order of termination issued by the petitioner company, by its order, dated 05.10.2018. That apart, the petitioner Company was also directed to re-instate the second respondent with back wages. Challenging the order passed by the Deputy Commissioner of Labour/Appellate Authority, Trichy, under the Tamil Nadu Shops and Establishments Act, 1947, in TNSE.No.6 of 2014, dated 05.10.2018, the petitioner has filed this writ petition in the year 2019.

2.The learned counsel appearing for the petitioner submits that the second respondent was working as a Regional Sales Manager in the Managerial capacity and therefore, he cannot maintain the appeal before the first respondent, under the Tamil Nadu Shops and Establishments Act, 1947. The learned counsel has also raised an objection that the jurisdiction of the Company is at



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Thane and therefore, if any dispute arises, it can be agitated only before the Tribunal at Maharashtra and not before the State of Tamil Nadu.

3.The learned Special Government Pleader appearing for the first respondent and the learned counsel for the second respondent by referring to the Judgment of the Honourable Supreme Court, in ***Spic Pharmaceuticals Division vs. Authority under Section 48(1) of A.P.Shops and Establishments Act, 1988 and another***, reported in ***(2007) 2 Supreme Court Cases 616*** submit that the very same issue has been dealt with and settled by the Honourable Supreme Court as under:-

"5.The High Court accepted that the Act which makes the provisions of the ID Act applicable providing remedy to sales promotion employees is a special enactment dealing with service conditions of sales promotion employees employed in the establishment engaged in pharmaceutical e industries. The Shops Act deals with specific rights created under that Act and it has been indicated that these provisions provided for some more measures for protecting interest of the employees. They are



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beneficial in nature. The High Court held that the jurisdiction conferred under the Shops Act cannot be said to have been taken away in respect to enforcement of rights conferred under the Act. We think it is unnecessary to go into these broader issues. We find that the forums created under the ID Act, on the facts of the case can more effectively deal with the issues raised. It is not to be understood that we have said that the Appellate Authorities under the Shops Act do not have jurisdiction. We are not really deciding that issue as to whether there was exclusion of the jurisdiction of authorities made (sic) the Shops Act because it specifically provided that the forum under the ID Act 9 can be approached. In the peculiar circumstances, therefore, we direct that the State Governments concerned i.e. Karnataka, Tamil Nadu and Maharashtra shall make reference to the appropriate forum under the ID Act within a month from today. The forum concerned shall make an effort to dispose of the reference to be made within three months from the date of receipt of the reference. If the respondent employees are entitled to any payment because of the pendency of the disputes, the same shall be paid within two months from today. We make it clear that we have not expressed any opinion on the merits of the case and the order for reference by the State Government is being made in view of the special features involved. Normally it is for the State Government to decide whether reference is to be made but in view of the conceded position by the learned counsel for the parties that the industrial disputes do exist, we direct the State Governments concerned to refer the dispute to the forum under the ID Act for adjudication as directed above.



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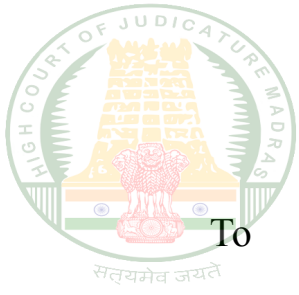
6. *Appeals are accordingly disposed of with no orders as to costs."*

With regard to the jurisdiction, the learned counsel for the first respondent has relied on the order passed by this Court in WP No.8470 of 2010, dated 22.01.2025, wherein, this Court, while entertaining that writ petition has passed a conditional order, under Section 17(b) of the Industrial Disputes Act, 1947. However, the same has not been complied with by the petitioner.

Considering the above said judgments and that the petitioner has not complied with the conditional order passed under Section 17(b) of the Industrial Disputes Act, 1947, this writ petition is dismissed.

01.09.2025

NCC : Yes / No.
Index : Yes / No.
Internet : Yes.
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To

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The Appellate Authority/Deputy Labour Commissioner,
(Under the Tamilnadu Shops and Establishments Act),
O/o.The Deputy Labour Commissioner,
Tiruchirappalli.



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B.PUGALENDHI, J.

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Order made in
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