

W.P.(MD).No.27164 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.27164 of 2023

and

W.M.P(MD)No.23328 of 2023

Tamil Nadu Transport Corporation
Labour Progressive front,
Karaikudi Region,
Represented by its General Secretary,
M.Pachammal, S/o. Manickam,
having office at Managiri,
Karaikudi,Sivagangai District.

... Petitioner

Vs.

1. The Joint Commissioner of Labour,
Office of the Joint Commissioner of Labour,
Bharathi Ula Veedhi,
Madurai – 625 002.
2. The Labour Progressive Federation,
Represented by its General Secretary,
Having Office at 25, Thiyagarajar Street,
North Usman Road,
Chennai – 600 017.
3. V.Murugan



W.P.(MD).No.27164 of 2023

4. Vincent Amaldoss

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, in the nature of writ, to call for the records of the impugned proceedings in No order in Na.Ka.No.AA6/2543/2023 dated 02.11.2023 on the file of the first respondent and quash the same.

For Petitioner : Mr.K.Jeyamohan

For R-1 : Mr.D.Farjana Ghoushia
Special Government Pleader

For R2 : No appearance

For R-3 : Mr.C.Sundaravadivel

For R-4 : Mr.R.Narayanan

ORDER

The General Secretary of a Trade Union has filed the present writ petitioner challenging the order passed by the first respondent herein on 02.11.2023, wherein he had rejected the request of the Trade Union for registration of the amendment of by-laws.



W.P.(MD).No.27164 of 2023

WEB COPY

2. According to the learned Counsel appearing for the petitioner, a General Body meeting of the Trade Union was convened on 16.04.2023 and has passed a resolution approving the amendment. The said amendment was forwarded to the first respondent herein for his approval. On 11.07.2023, it was approved by the first respondent. The approval granted by the first respondent was challenged in W.P.(MD)No. 18557 of 2023 by the rival group. This Court passed an order on 03.10.2023, refusing to interfere in the said order. However, the petitioner was granted liberty to file an appeal or approach the competent Civil Court.

3. The writ petitioner in W.P.(MD)No.18857 of 2023 has approached the second respondent herein alleging that the General Body was not conducted on 16.04.2023 and therefore, the resolution passed approving the amendment of by-laws is not valid. The second respondent, in turn, has approached the Commissioner of Labour on 11.10.2023. On the same day, the Commissioner of Labour had

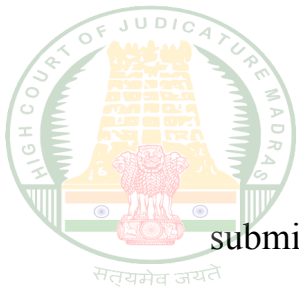


W.P.(MD).No.27164 of 2023

instructed the first respondent herein to consider the request of the second respondent and to conduct a fresh enquiry.

4. The first respondent has issued a notice on 30.10.2023 insisting the parties to appear for an enquiry on 01.11.2023. It is submitted by the learned Counsel appearing for the petitioner that after appearance they had raised an issue relating to the maintainability of the enquiry before the first respondent. However, the present impugned order has been passed on 02.11.2023, cancelling the amendment of by-laws. This order has put to challenge in the present writ petition.

5. Accordingly to the learned Counsel appearing for the writ petitioner, the first respondent being a statutory authority, unless he is conferred with express powers to review his own order, he cannot entertain a fresh enquiry and pass an order on 02.11.2023, recalling his order dated 11.07.2023. The learned Counsel appearing for the petitioner also relied upon the judgment of the Hon'ble Supreme Court reported in (2010) 9 SCC 437 and (2019) 9 SCC 416 in support of this legal



W.P.(MD).No.27164 of 2023

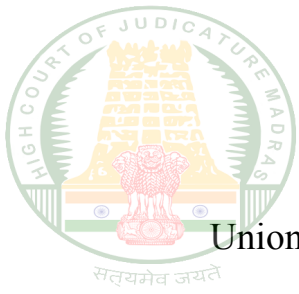
submissions.

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6. Per contra, the learned Counsel appearing for the respondents 3 and 4 had contended that no General Body meeting was convened on 16.04.2023 and therefore, the by-laws cannot be amended. They had made a complaint to the second respondent herein and pursuant to the said complaint, the Commissioner of Labour has directed the first respondent to reconsider the granting of approval to the amendment of by-laws. In such circumstances, the first respondent herein had issued notice to both the parties and after considering the submissions on either parties had arrived at a finding that the by-laws have been amended without conducting a General Body meeting. In such circumstances, the order of the first respondent may not be interfered with.

7. Heard the learned Counsels on either side and perused the materials available on record.

8. As per Section 28(3) of the Trade Unions Act, 1926, a Trade



W.P.(MD).No.27164 of 2023

WEB COPY

Union is empowered to make alterations in their rules and if any alterations is made, it has to be submitted to the Registrar within a period of 15 days for his approval. Rule 15 of Tamil Nadu Regulations under the Trade Unions Act empowers the Registrar to consider the alterations made in by-laws to find out whether they are inconsistent with any of the provisions of Trade Union Act. In case, if they are not inconsistent, he shall register the alterations and deliver a copy to the Secretariat of the Trade Union. In the present case, the writ petitioner herein has submitted the resolution passed by the General Body on 16.04.2023. The first respondent has accepted the said resolution and has approved the amendments on 11.07.2023.

9. The issue that now arises for consideration is whether the same authority could issue notices to the parties and conduct a fresh enquiry and recall his order. The Hon'ble Supreme Court in the judgment reported in **(2010) 9 SCC 437** in paragraph No.12, has held as follows:



W.P.(MD).No.27164 of 2023

WEB COPY

“12. It is settled legal proposition that unless the statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review could not be made and the order in review, if passed, is ultra vires, illegal and with jurisdiction.”

10. The Hon'ble Supreme Court in the judgment reported in **(2019) 9 SCC 416** in paragraph No.13, has held as follows:

“It is settled law that the power of review can be exercised only when the statute provides for the same. In the absence of any such provision in the statute concerned, such power of review cannot be exercised by the authority concerned.”

11. The first respondent herein being a statutory authority, has not been conferred with any express power to review his own order under the Trade Unions Act, 1926. In such circumstances, he cannot review his order dated 11.07.2023 just because a complaint was lodged before the Commissioner of Labour. However, it is open to the private respondents to challenge the amendment of the by-laws or the resolution



W.P.(MD).No.27164 of 2023

passed by the General Body, in the manner known to law.

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12. With the above said observations, the order impugned in this writ petition is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2025

Index : Yes / No
Internet : Yes / No
jbr

To

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W.P.(MD).No.27164 of 2023

R.VIJAYAKUMAR ,J.

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