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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 26476 of 2024
and W.M.P.Nos.28951 & 29280 of 2024
CNR: {HCMA011424772024}

Case QR

1. Jai Balaji Industries Ltd
   Rep By Its Chairman And Managing Director
   (CMD), First Floor, Jajodia Mansion, No.5,
   Bentick Street, Kolkata-700 001 West Bengal

2. Varun Jajodia
   Jai Balaji Industries Ltd, First Floor, Jaiodia
   Mansion, No.5, Bentink Street, Kolkata-700
   001, West Bengal

3. Bivash Chakraborty
   Head Of The Department-dip Marketing, Jai
   Balaji Industries Ltd, 5th Floor,bncci Building,
   No.23, R.N.Mukherjee Road,
   Kolkata-700 001,West Bengal

..Petitioner(s)

Vs

1. The Special Deputy Commissioner Of Labour
   Chennai/the Appellate Authority Under The
   Tamilnadu Shops And Establishments Act,
   Commissionerate Of Labour, DMA Complex,
   Teynampet, Chennai-600 006

2. Amit Kumar Upadhay
   C/o.Hemant Hazari, New India, First Floor,
   No.25, Taluk Office Road, Opposite To
   Chinnamalai Bus Depot, Littlemount,
   Chennai-600 015

..Respondent(s)

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PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to TNSE-1/8/2014 dated 15.7.2024 pending before the 1st respondent and quash the same.

For Petitioner(s): Mr.K.V.Shanmuganathan

For Respondent(s): Mr.K.K.Ram Siddhartha, AGP for R1
Mr.Amit Kumar Upadhay Party-in-Person for R2

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ORDER

The petitioner / Management has challenged the impugned proceedings initiated by the second respondent under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 (the Act).

2. The case of the petitioner is that the second respondent had tendered a resignation from the employment of the petitioner on 18.03.2012 which was signed by the second respondent on 19.03.2012 and therefore, there was no dismissal of the second respondent by the petitioner / Management for the second respondent to invoke the jurisdiction of the first respondent under Section 41(2) of the Act.

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3. The petitioner has placed reliance on the decision of this Court in *Needle Industries Limited v. Additional Commissioner of Workmen's compensation Madras Teynampet and Others, 1981(1) MLJ 448; (1986)1 LLJ 408.*

4. It is the case of the petitioner that the ratio laid therein squarely applies to the facts of this case and that the decision of the single bench of this Court in *Needle Industries Limited* were sustained by the Division Bench in its orders in *C.R.Ramaswami v. Messrs. Needle Industries (I) Ltd & another, (1981)94 LW 87; (1981)1 MLS 448.*

5. It is further submitted that the above decision has been also consistently followed in the following two cases:

> ***"(i) Continental DataGraphics Technical Services Pvt. Ltd., Chennai - 89 v. The Special Deputy Commissioner of Labour (Appeals), Teynampet, Chennai - 6 and another in W.P.No.30856 of 2017 vide Order dated 11.08.2023;***
>
> ***(ii) The Management of M/s.Trimax Industries Ltd., No.1, Subbarayan Avenue, C.P.Ramaswamy Road, Alwarpet, Chennai 600 018 v. Appellate Authority under the Tamil Nadu Shops and Establishments Act, (Deputy Commr. Of Labour-I), Chennai - 6 and another in W.P.No.36767 of 2003 vide Order dated 18.07.2017."***

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6. It is therefore submitted that the proceedings initiated before the first respondent at the behest of the second respondent under Section 41(2) of the Act were without jurisdiction.

7. The present writ petition is of the year 2024. It was filed only on 02.08.2024. In the proceedings before the first respondent under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 initiated by the second respondent, the petitioner / Management had earlier secured a favourable order dated 08.10.2021 in Case Reference No. TNSE-I/1A2/2021 from the first respondent permitting it to adduce additional evidence against the second respondent herein.

8. The said order was challenged by the second respondent before this Court in W.P. No. 24840 of 2021. By an order dated 12.06.2025, the aforesaid writ petition filed by the second respondent was allowed, and the case was remitted back to the first respondent for fresh consideration. Operative portion of the said order reads as under:

> ***"Considering the fact that the impugned order is a non speaking order where the authority has not considered any of the defences which has been raised by the writ petitioner, the impugned order is set aside. The matter is remitted back to the 1st respondent for fresh consideration and pass order."***

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9. The said order was also subject matter of challenge by the petitioner before the Division Bench of this Court in W.A.No.2225 of 2025. By an order dated 06.10.2026, the Division Bench, passed the following order:

> ***"7. Therefore, we allow the Writ Appeal, on condition that the appellant Management should examine the witness-R.W.2 on the next hearing date. The Special Deputy Commissioner of Labour, who is the second respondent herein, shall fix the hearing date between 21.10.2026 and 23.10.2026. On the date of hearing, the witness should be present and subject himself to cross-examination also. Parties should be intimated well in advance about the hearing date so as to enable them to participate in the proceedings. If the appellant fails to produce the witness on the date of hearing, there shall be no further indulgence and the Special Deputy Commissioner of Labour shall proceed with the evidence available on record and pass appropriate orders in accordance with law. No costs. Consequently, the connected C.M.P.No.17035 of 2025 is closed."***

10. Thus, there is not only an *issue estoppel* operating against the petitioner on this aspect of jurisdiction but also the present writ petition is barred on account of constructive res judicata. The jurisdictional point ought to have been argued and settled either in W.P.No.24840 of 2021 as a defence or before the Division Bench of this Court in W.A.No.2225 of 2025. Therefore, the present writ petition filed for a writ of certiorari, to call for the records pertaining to TNSE-1/8/2014 dated 15.7.2024 pending before the 1st respondent cannot be countenanced.

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11. Considering the same, this writ petition is liable to be dismissed and is hereby accordingly dismissed. Consequently, the W.M.P.Nos.28951 & 29280 of 2024 are closed. No costs.

04-11-2026
(1/2)

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RNA

To

1. The Special Deputy Commissioner Of
   Labour Chennai/the Appellate Authority
   Under The Tamilnadu Shops And
   Establishments Act, Commissionerate Of
   Labour, Dms Complex, Teynampet,
   Chennai-600 006

2. Amit Kumar Upadhay
   C/o.Hemant Hazari, New India, First Floor,
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C.SARAVANAN, J.

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