

(2002) 03 MAD CK 0042

In the Madras High Court

Case No : Writ Petition No. 15463 of 2000

Dharmapuri South District Rural Development and Local
Administration Department Workers Union

APPELLANT

Vs

The Block Development Officer, Dharmapuri and The
President, Lakkiampatti Panchayat, Dharmapuri

RESPONDENT

Date of Decision : 11-03-2002

Acts Referred:

Citation : (2002) 03 MAD CK 0042

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : P. Rajendiran, for the Appellant; M. Devaraj, for the Respondent

Judgement

V. Kanagaraj, J.—Petitioner Union has filed this Writ Petition praying to issue a Writ of Mandamus forbearing the respondents from

applying the provisions of G.O. Ms.No.119, Rural Development (E-5) Department dated 10.5.2000 for reducing the pay of the members of the petitioner Union.

2. In the affidavit filed in support of the writ petition, the petitioner would submit that the petitioner Union is a registered Trade Union consisting of

20 members, who are working as Part-time sweepers in the second respondent panchayat and they were drawing a consolidated monthly pay of

Rs.666/- till May 2000; that they were allowed the said pay before 31.8.1998; that while so, the first respondent has circulated the impugned

G.O. dated 10.5.2000 to all the panchayat presidents for taking appropriate action stating that the sanitary workers and the pump operators of

village panchayats, who have filed cases in the High Court contending that G.O. Ms. No.191 Finance Department dated 29.4.1998 would also

apply to them, should be continued to be paid the pay drawn by them before 31.8.1998 until further orders and that in respect of others, the pay

should be given as per para. No.4 of the impugned G.O. Dated 10.5.2000.

3. The petitioner Union would further submit that in para. No.4 of the said G.O., it has been stated that the part-time Pump Operators should be

paid a consolidated pay of Rs.400/= and Rs.150/= for maintenance of every additional pump; that nothing has been mentioned about the payment

of salary to the part-time Sweepers; but however, the part-time Sweepers, who were drawing a pay of Rs.666/= p.m. till 31.5.2000 have been

orally informed that they would be paid only Rs.350/= p.m. From June 2000; that no written order or communication was given to them; that they

were paid only a sum of Rs.350/= for the month of June 2000; that since their pay was reduced from Rs.666/= to Rs.350/= without any notice,

they have not received their pay from June 2000; that the petitioner Union represented the matter to the Collector, Dharmapuri stating that the

impugned G.O. applies only to the Pump Operators thereby requesting to taking action to continue to pay the existing pay drawn by them; but

however, no action has been taken on the said representation. Hence the writ petition.

4. Though no counter affidavit has been filed on the part of the respondents, the learned counsel appearing for the respondents would choose to

advance his arguments on instructions. Even during arguments, both the learned counsel would lay emphasis on the contents of the writ petition and

the Government Order impugned herein and since no new facts or circumstances nor any law having been brought forth, this Court is of the view

to pass orders based on the materials made available on record.

5. It could be seen that it is the Government Order passed in G.O. Ms.No.119, Rural Development (E-5) Department dated 10.5.2000 is the

crux of the writ petition, though the same has not been challenged. The petitioner Union has not even impleaded the Government of Tamil Nadu,

which has passed the impugned Government Order, as a party to the writ petition. However, the prayer is restricted to forbear the respondents

from applying the provisions of the said G.O. by issue of a writ of mandamus. It is the Block Development Officer, Dharmapuri and the President,

Lakkiampatti Panchayat are the only respondents in the writ petition and a

direction is sought to be made forbearing the respondents from applying the provisions of the Government Order. Therefore, at the outset, it is necessary to analyse whether such a direction could be issued by this Court not to apply the G.O. passed by the Government of Tamil Nadu especially when the Government itself is not a party to the writ petition, since an order passed, in accordance with the prayer, by this court, is sure to affect the interest of the Government, defeating the intention of passing the G.O. which is narrated therein. Hence, it is undesirable on the part of this Court to issue such a direction forbearing the respondents from applying the provisions of the G.O. especially in view of the fact that the respondents are only creatures revolving under the Government.

6. In the above circumstances, it is only advisable that the petitioner Union could challenge the very Government Order, which is laying emphasis on the respondents in adopting the provisions of the Government Order, in which event a definite decision could be arrived at by the Court.

Moreover, it further comes to be seen that the petitioner Union has made a representation to the Collector, Dharmapuri, stating that the impugned G.O. applies only to the Pump Operators thereby requesting to take action to continue the existing pay scale drawn by them which is yet another flaw in the approach of the petitioner, since the Collector is bound by the G.O. and he could only enforce the G.O. in its entirety and cannot go against, under any circumstance. Therefore, the only course that is open for the petitioner Union is to either approach the Government of Tamil Nadu making such representation to consider their genuine grievances and if it is not done to their satisfaction, to challenge the very G.O. passed by the Government of Tamil Nadu, which is impugned herein.

7. In the above circumstances, so far as this Court is concerned, even though the Government of Tamil Nadu is not a party to the proceeding, this Court, in the interest of justice, could only direct the Government of Tamil Nadu to entertain the representation, if any, made on the part of the petitioner Union, within four weeks from the date on which the copy of this order is made ready and in such an event, the Government shall consider regarding the subject covering the writ petition, with an opportunity for the petitioner Union to be heard and give a disposal to the representation of the petitioner, within eight weeks from the date of such

representation.

8. With the above directions, the writ petition is disposed of. No costs.

Consequently, W.P.M.P. No.22486 of 2000 is closed.