
(2009) 11 MAD CK 0059

In the Madras High Court

Case No : Writ Petition No. 22929 of 2009 and M.P. No. 1 of 2009

Kaleeswari Refinery Pvt. Ltd.

APPELLANT

Vs

The Inspector of Police, The Deputy Commissioner of Police
and The General Secretary, Chennai Export Processing Zone
(MEPZ) and General Workers Union

RESPONDENT

Date of Decision : 11-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 11 MAD CK 0059

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Ragahvachari, for the Appellant; Sivashanmugam, G.A., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner is a Private Limited Company having its factory at Mambakkam Road, Vengaivasal, Chennai. The petitioner

has filed the present Writ Petition seeking for direction to the respondents 1 and 2 to offer police protection to the petitioner's factory situate at

No. 5 Mambakkam Road, Vengaivasal, Chennai-73.

2. The petitioner had stated that the 3rd respondent, which is a Trade Union had raised a dispute by issuing a strike notice dated 29.10.2009.

According to the petitioner, it is an unrecognised Union. However, talks were held before the Assistant Commissioner of Labour-I (Conciliation),

Chennai. Even while the talks were going on, the petitioner Company had received a caveat lodged by the 3rd respondent before the Civil Courts

in Tambaram and Chengelpattu. It is stated that the strike notice is a blackmail that issued by the 3rd respondent. If it is allowed to go ahead with

the strike notice, the petitioner Company will not be able to run its business. It is also stated that the 3rd respondent is engaging rowdy elements

and due to them, serious damage will be caused to the reputation of the petitioner.

3. The petitioner also referred to a judgment of this Court in A.S.V. Varadhachariyar v. The Commissioner of Police, Egmore, Madras and Anr.

reported in 1969 (II) MLJ 1.

4. Notice was ordered to the respondents. The learned Government Advocate, on instructions from the 1st respondent, the Inspector of Police,

Selaipur, Kancheepuram District submitted that there is no law and order problem in and around the area of the petitioner's factory.

5. Even a perusal of the so-called complaint given by the petitioner dated 5.11.2009 (found in page 9 of the typed set of papers) would show that

it did not disclose any cognizable offences committed by the 3rd respondent Union. Though it was stated that the 3rd respondent is not a

recognised Union under the Industrial Disputes Act, there is no provision for the grant of recognition to any Union. It is solely left to the

management's discretion. In the present case, as disclosed in the affidavit, the conciliation talks are pending before the Assistant Commissioner of

Labour-I (Conciliation), Chennai. At this stage if any direction is given, it will only create problem for both the parties in solving their dispute

amicably.

6. The judgment cited by the petitioner, namely 1969 (2) MLJ 1 related to a case where the nearby slum dwellers occupied the petitioner's

property without permission and it was held to be a criminal trespass. Only when the Police Commissioner did not act, a direction to the

Commissioner of Police for taking appropriate action on the cognizable offence was issued. The reliance placed upon the said judgment is

completely misplaced. The petitioner as a matter of right cannot claim any police protection unless the law permits.

7. The Supreme Court vide judgment in P.R. Murlidharan and Others Vs. Swami Dharmananda Theertha Padar and Others, has held that the High

Court cannot as a matter of right give police protection on the mere asking for it.

8. The following passage found in para 12 of the judgment in Moran M. Baselios Marthoma Mathews II and Others Vs. State of Kerala and

Others, (by S.B.Sinha J) may be usefully extracted below:

Such might have been the contentions of the appellants before the High Court or before us in the special leave petitions, but we have no doubt in

our mind that such disputed questions in regard to title of the properties or the right of one group against the other in respect of the management of

such a large number of Churches could not have been the subject-matter for determination by a writ court under Article 226 of the Constitution of

India in the garb of grant of police protection to one or the other appellants.

9. In the light of the above, the writ petition stands dismissed. No costs. The connected Miscellaneous Petition stands closed.