
(1999) 09 MAD CK 0083
In the Madras High Court
Case No : M.P. No. 14194 of 1999

Tirupathi Spinning Mills

APPELLANT

Vs

Superintendent of Police and Another

RESPONDENT

Date of Decision : 10-09-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 23

Citation : (2000) 3 LLJ 182

Hon'ble Judges : K. Govindarajan, J

Bench : Single Bench

Judgement

K. Govindarajan, J.—The petitioner has filed the above writ petition seeking to issue a writ of mandamus, seeking directions to the first respondent to provide necessary protection at the premises of the petitioner-mill, for the purposes mentioned in the writ petition.

2. According to the petitioner, as stated in the affidavit and as submitted by the learned counsel appearing for the petitioner, the workmen belonging to the second respondent-union numbering about 60 struck work from 7.00 a.m. on August 13, 1999 and started indulging in acts of indiscipline preventing the willing workers from working, accommodating and threatening them and abusing the management staff using filthy language. It is also stated that the striking workers are preventing the petitioner from removing the finished products. According to the petitioner, the strike is illegal as it is against the provisions of Industrial Disputes Act, 1947. As submitted by the learned counsel for the petitioner this Court need not go into the issue whether the said strike by the workmen belonging to the second respondent-union is legal or not.

3. Now, the only question to be decided is whether the petitioner is entitled for police protection as sought for, for the reasons stated in the affidavit.

4. The learned counsel appearing for the petitioner has submitted that even with respect to the charter of demands made by the workmen belonging to the

second respondent-union, conciliation proceedings are pending before the concerned authority. While conciliation proceedings are pending, the workmen belonging to the second respondent-union struck work from 7.00 a.m. on August 13, 1999. Referring to Section 23(a) of the said Act, the learned counsel has submitted that the second respondent-union has no right to prevent the other workers who are willing to work, and it also cannot prevent the petitioner from removing the goods out of its mill premises.

5. The learned counsel appearing for the second respondent-union has submitted that the petitioner has not come forward with clean hands and the petitioner has suppressed material facts relating to the conciliation proceedings and also the proceedings taken against one Raja. According to the second respondent-union, only because of unfair labour practice of the petitioner, the workmen belonging to the second respondent-union struck work with effect from August 13, 1999. According to him, so far no worker has been confirmed and so the charter of demands has been raised. In effect the learned counsel has submitted that the petitioner is not implementing settlement entered into with them by the second respondent-union on December 7, 1998. Referring to the same provision, namely, Section 23 of the said Act the learned counsel has further submitted that partial lockout announced by the petitioner is illegal, as it has been made pending conciliation proceedings. He has also brought to my notice that before the conciliation officer, the petitioner, without filing counter, has been dragging on the proceedings. On that basis, the learned counsel has also submitted that the petitioner has no intention to solve the problems, but the petitioner is dragging on the same.

6. Both the counsel referred to number of authorities in support of their arguments. In this case, in view of certain admitted facts as stated in the affidavit and counter and also during argument. I am not going to deal with the said decisions. It is not in dispute that the workmen belonging to the second respondent-union struck work with effect from August 13, 1999, on certain demands. The petitioner also has announced partial lockout with effect from August 13, 1999. Though argument was made about the illegality of the strike and the lockout, I am not deciding the same, as it is not necessary to decide the present issue. Even with respect to the charter of demands raised by the workmen belonging to the second respondent-union, I am not going to decide the same, as they are pending before the Conciliation Officer.

7. It is the case of the petitioner that under the guise of the said strike, the workmen belonging to the second respondent-union prevent the other willing workers to enter into the petitioner-mill premises to carry on their work. While replying it is specifically stated in Para. 15 of the counter as follows:

"I submit that the allegations by the management that the workers indulged in violence is absolutely false and have been cooked up only for the purpose of this case. I state that the striking workers are staging the stay in strike peacefully without any resort to violence."

Moreover, the learned counsel appearing for the second respondent-union has also submitted that the striking workers are not preventing any other worker to enter into the petitioner-mill, as they are conducting strike peacefully without resorting to any violence. In view of the above, the case of the petitioner that the other workers of the second respondent-union are preventing the willing workers to carry on their work cannot be accepted, as the same has been disputed by the second respondent-union.

8. The apprehension of the second respondent-union as stated in Para. 16 of the counter that under the guise of police protection, the management wants to hire fresh hands at our cost. But in the affidavit filed by the management it is stated that it is not the intention of the petitioner-mill to recruit new workers in the place of striking workers. With respect to the other aspect regarding the obstruction for removal of goods, the second respondent has filed counter stating as follows:

"I submit that as far as the export orders are concerned, sufficient goods are available in marketable condition in the mills and we have never obstructed their removal. In fact on September 1, 1999, the management has removed yarn meant for exports in two huge containers."

In view of the said assertion of the second respondent-union, the petitioner need not have any apprehension regarding the same.

9. Taking into consideration of the above said pleadings, to safeguard the interest of the parties, I am passing the following order:

(1) The workmen belonging to the second respondent-union should not prevent the other workers if they want to work in the petitioner-mill.

(2) The workmen belonging to the second respondent-union should not prevent the ingress and egress of the petitioner-mill to carry out the raw materials and finished goods.

(3) The workmen belonging to the second respondent-union shall carry on their strike outside the mill premises, without doing hindrance to others.

(4) The petitioner should not employ any new workmen on the basis that the workmen belonging to the second respondent-union are on strike, till conciliation proceedings are over.

10. In view of the above direction, I do not find any reason to give police protection as sought for by the petitioner. But if either the workmen belonging to the second respondent-union, or the petitioner violates the above order, the petitioner or the second respondent-union can approach the first respondent to take necessary action against such a party who violates the order of this Court, and the first respondent shall take necessary action, if he satisfies that there is violation of the Court order. With the above observations, this writ petition is disposed of accordingly. No costs. Consequently, Writ Miscellaneous Petitions

Nos. 20494 to 20498 of 1999 are closed.