

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 02.11.2020

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.15774 of 2020

and

W.M.P.Nos.19607, 19608 and 19606 of 2020

1.M/s.Chennai Port & Dock Workers Congress,
A trade Union Registered under the Trade
Unions Act rep. by its President B.Srinivasan
No.87, (Old No.45) Royapettah High Road,
G.R.Bhavan, 2nd Floor, Chennai - 600 014.

2.B.Srinivasan Petitioners

Vs.

1.The Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai, Chennai - 600 001.

2.The Secretary/conducting Authority Check off
Proceedings, Chennai Port Trust Chennai I.

..... Respondents

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the circular No.IR2/4944/2020/GA dated 29.09.2020 issued by the second Respondent and quash the same.

For Petitioners : Mr.K.Shanmugakhani

For Respondents : Mr.Haja Mohideen Gisthi

ORDER

The prayer sought for herein is for a Writ of Certiorari calling for the records of the circular No.IR2/4944/2020/GA dated 29.09.2020 issued by the second respondent and quash the same.

2. The petitioner viz., M/s.Chennai Port and Dock Workers Congress is a Trade Union registered under the Trade Unions Act. Number of employees working in the respondent Chennai Port Trust are the members of the petitioner Union. The petitioner Union has come forward with this writ petition with the aforesaid prayer challenging the impugned notification dated 29.09.2020, in and by which, the respondent Port Trust, in order to identify that, which Trade Union is able to muster more strength for the purpose of identifying and to nominate two number of trustees for the Chennai Port Trust administration, wanted to conduct election process, which is otherwise called as 'Check Off System'.

3. According to the said notification, the check off system would commence on 15.10.2020 and over by 30.10.2020 i.e., for 16 days.

4. The said challenge has been made in this writ petition mainly on the ground that, due to Covid-19 situation already some of the employees got affected and therefore, if the check off system election is conducted, as scheduled through the impugned notification by the respondent Port Trust, it will be vulnerable for more employees to get affected as the spread of Corona i.e., Covid-19 situation in this part of the country has not been completely vanished as per the report given by the Central and State Governments. Therefore, on the main ground of Covid-19 situation, the impugned notification is under challenge thereby the proposed check off system election process slated to be conducted by the respondent Port Trust, the petitioner Association wanted to cancel or defer.

5. Heard Mr.K.Shanmugakhani, learned counsel appearing for the petitioner, who has reiterated the said ground for the successful challenge of the impugned notification.

6. In this context, it is to be noted that, the very same impugned notification, has already been under challenge in W.P.No.14978 of 2020 filed by a similar employees Union of Chennai Port Trust. In the said writ petition, after hearing the petitioner's side therein as well as the respondent Port Trust through the Standing Counsel, this Court disposed the said writ petition on 16.10.2020, where, a detailed order has been passed.

7. In order to appreciate the same and to have a clear reference to the said order passed by this Court, the relevant portion of the order in W.P.No.14978 of 2020 is hereby extracted.

"18. In that view of the matter, this Court is inclined to pass the following orders in this writ petition :

(i) That the Standard Operating Procedure announced and being implemented by the Union as well as the State Government shall be strictly followed by the respondent Chennai Port Trust.

(ii) During this check off system election being conducted by the respondent Chennai Port Trust between 15.10.2020 and 30.10.2020, in every such place where if there is a chance of collecting more than one employee or official, the

social distancing shall be strictly maintained.

(iii) Wherever the employees form a queue or are collected in a group, the social distancing between each of the employees shall be strictly maintained. For the said purpose, a Supervisor in those parts to be identified, by the second respondent, can be appointed.

(iv) In every such place, the hand sanitizer shall be provided at the cost of the Port Trust and it shall be ensured that each of the employee, who enter into any premises or places for participation in the check off system, has utilized the hand sanitizer before move into his business.

(v) It shall be ensured that, every employee is wearing the masks, not only at the time of check off system election process, but also during the business hours, where he supposed to contact the other employee in close proximity.

(vi) In order to ensure all these additional measures, which suppose, are part of the Standard Operating Procedure, not only the supervisors, as indicated above and also some other officials of the Chennai Port Trust, must take a round at frequent interval, where if they

notice any violation of SOP, then and there, the official has to sort out the same by deputing more Supervisors.

(vii) With these measures, as indicated above, along with regular Standard Operating Procedure, being followed by Chennai Port Trust within the campus, if the check off system election process is taken place, this Court hope that, there would not be any vulnerability, as apprehended by the petitioner's employees Union that, Covid-19 would spread among the employees, when they necessarily participate in these process of check off system during these pandemic situation for the next 16 days.

(viii) In view of the aforesaid stringent measures to be adopted by the Chennai Port Trust due to the pandemic situation, there shall not be any campaign by the employees Associations including the petitioner's employees Union inside the campus of the Chennai Port Trust. If at all the employees Associations want to make campaign, they can do so by electronic mode.

With all these directions and observations, this Writ Petition is disposed of. However, there shall be no order as to

costs. Consequently, connected Miscellaneous Petitions are closed."

8.In view of the said orders having been passed by this Court in the writ petition, which was also filed challenging the very same impugned notification, Mr.K.Shanmugakhani, learned counsel appearing for the petitioner has fairly submitted that, the very same conditions can also be imposed in this writ petition also for conducting the check off system election process and also for any other event to be conducted in this regard aftermath of the said check off system election process, which was scheduled to be concluded till 30th October, 2020.

9.Having heard the said submissions made by the learned counsel appearing for the petitioner and also after considering the earlier order passed by this Court on the very same issue, as referred to above, in W.P.No.14978 of 2020 dated 16.10.2020 in the matter of V.Selvaraj Vs. Union of India, represented by Secretary, Ministry of Shipping, Transport Bhavan, New Delhi and another is concerned, this Court is inclined to pass the following order.

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Apart from the conditions stated therein in paragraph 18 of the said order, as extracted herein above, this Court also wants to emphasise that, the said conditions shall be strictly implemented at the time of whatever programme being conducted by the respondent Port Trust in relation to the said check off process election system and subsequent activities, which would be taken place in the campus of the respondent Chennai Port Trust.

10. With these directions and observations, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non-speaking order

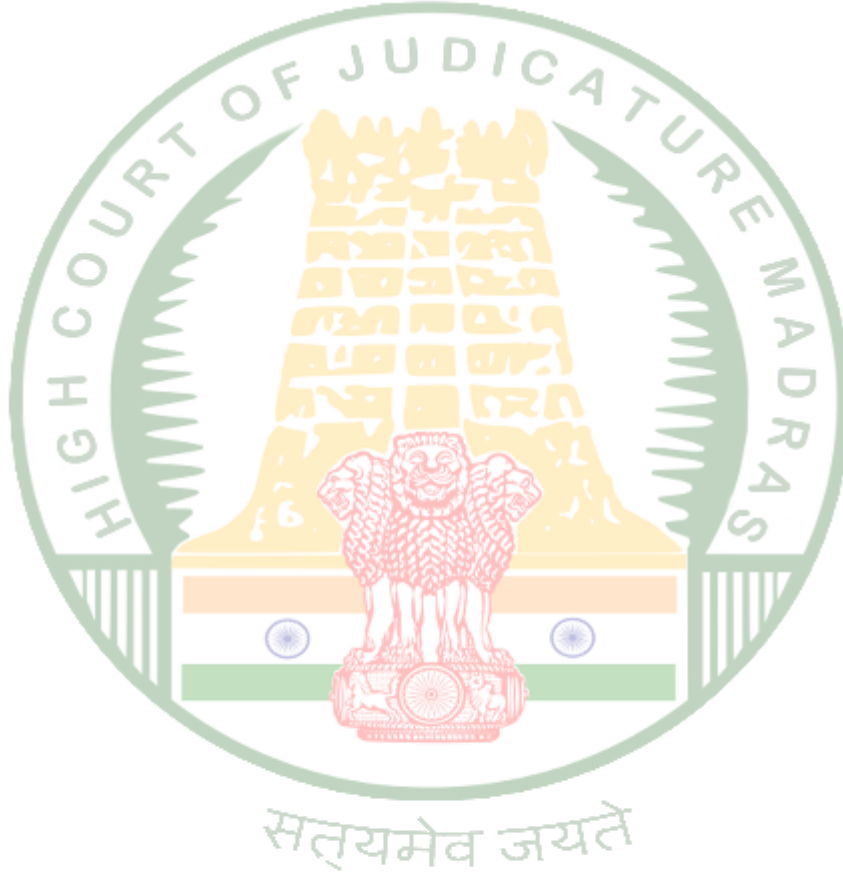
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To

1. The Chairman,

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The Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.

2.The Secretary/conducting Authority Check off
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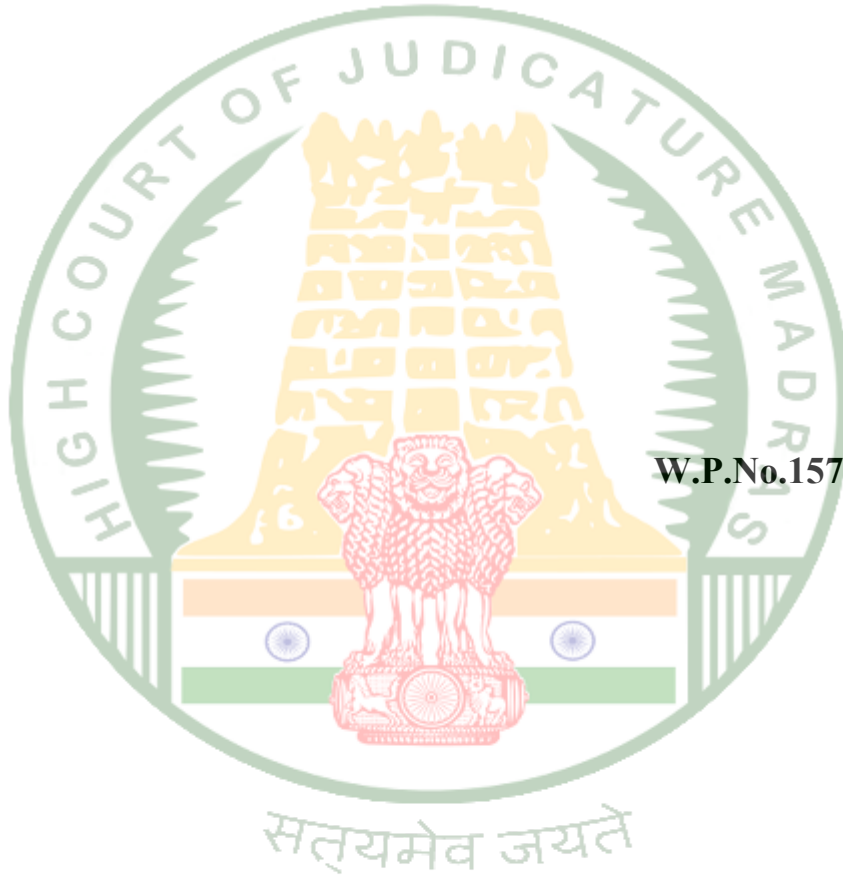


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R.SURESH KUMAR, J.

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