IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

HON'BLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 24766 OF 2011

Between:

Larsen & Toubro Limited, a Company incorporated under the, Laws of India, having its Registered Office at L & T House, Ballard Estate, P.O. Box 278, Mumbai - 400 001 and its Registered Office at Cyber Gateway, B-Block, Wing No. 1, 1st Floor, Madhapur, Hyderabad- 500 081 and its project site office at Anantapur represented by its Manager – Administration Mr. C.N. Unnikrishnam.

...PETITIONER

AND

1. The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.
2. The Joint Secretary to Government, Government of Andhra PRadesh, Labour Court, Anantapur
3. The Satya Sai Water Supply Project District, Wrokers Trade Union, Regd. No. F-2002, Anantapur.
4. B. Sreenivasulu, S/o. Nagi Shetty, residing at D.No. 22/175, Yadav Street, Bangalore Road, Dharmavaram.
5. M.V. Chandrasekhar, S/o. V.Vaddakktsil, Residing at D.No. 3/156, Ananthalakshmi Nilaya, Bathalapalli, Anantapur District.
6. T. Mallikarjuna Reddy, S/o T. Bali Reddy Residing at D.No. 12/4/953, Adarshnagar, Anantapur.
7. Y. Shivakumar, S/o. Y. Ananda Rao D.No. 2/336, Shivalayam Street, Puttaparthy, Anantapur District.
8. K. Nagamohan Rao, S/o. K. Sathyanarayana D.No. 2/336, Shivalayam Street, Puttaparthy, Anantapur District.

9. L.K. Chenna Reddy, S/o. L.K. Linga Reddy residing at Putlur Village & Post Putlur Mandal, Tadipatri, Anantapur District.

10. G.V. Sathyanarayana, **(Dismissed for default)** S/o. V. Ramamohan Rao, Aged about 37 Years, Residing at Vidyanagar, Near Ayyappa Temple, Kalyandurg.

(Since the Conditional Order of the Court dtd. 16/04/2014 has not been complied with, the default clause of the said order has been given effect to, and the WP. No. accordingly stands as against Respondent No.10)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to a) to call for the records culminating in G.O.Rt.No. 125, dated 05.08.2011 issued by the Joint Secretary to the Government, Respondent No. 2 herein, by which Award dated July 01, 2011 in ID No. 271 of 2005 of the Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur, which has to be published under Section 17 of the ID Act on 30.08.2011 and b) quash the Award in ID No. 271 of 2005 dated July 01, 2011 by the issuance of a Writ of Certiorari or any appropriate Writ, Order or direction as this Hon'ble Court may deem fit and proper in the circumstance of the case while declaring it as illegal, arbitrary, including awarding of costs of these proceedings and render justice.

I.A. NO: 1 OF 2011(WPMP. NO: 30448 OF 2011)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the Impugned Award dated July 01, 2011 in ID No. 271 of 2005 dated 01.07.2011 vide G.O.Rt.No. 1252 dated 05.08.2011 issued by the Respondent No. 1 viz., the Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur, pending disposal of the Writ Petition.

I.A. NO: 1 OF 2012(WVMP. NO: 1127 OF 2012)

Between:

The Satya Sai Water Supply Project District, Wrokers Trade Union, Regd. No. F-2002, Anantapur.

...PETITIONER/3rd RESPONDENT

AND

1. Larsen & Toubro Limited, a Company incorporated under the, Laws of India, having its Registered Office at L & T House, Ballard Estate, P.O. Box 278, Mumbai - 400 001 and its Registered Office at Cyber Gateway, B-Block, Wing No. 1, 1st Floor, Madhapur, Hyderabad- 500 081 and its project site office at Anantapur represented by its Manager – Administration Mr. C.N. Unnikrishnam.

...RESPONDENT/WRIT PETITIONER

2. The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.
3. The Joint Secretary to Government, Government of Andhra PRadesh, Labour Court, Anantapur
4. B. Sreenivasulu, S/o. Nagi Shetty, residing at D.No. 22/175, Yadav Street, Bangalore Road, Dharmavaram.
5. M.V. Chandrasekhar, S/o. V.Vaddakktsil, Residing at D.No. 3/156, Ananthalakshmi Nilaya, Bathalapalli, Anantapur District.
6. T. Mallikarjuna Reddy, S/o T. Bali Reddy Residing at D.No. 12/4/953, Adarshnagar, Anantapur.
7. Y. Shivakumar, S/o. Y. Ananda Rao D.No. 2/336, Shivalayam Street, Puttaparthy, Anantapur District.
8. K. Nagamohan Rao, S/o. K. Sathyanarayana D.No. 2/336, Shivalayam Street, Puttaparthy, Anantapur District.
9. L.K. Chenna Reddy, S/o. L.K. Linga Reddy residing at Putlur Village & Post Putlur Mandal, Tadipatri, Anantapur District.

10.G.V. Sathyanarayana, S/o. V. Ramamohan Rao, Aged about 37 Years, Residing at Vidyanagar, Near Ayyappa Temple, Kalyandurg.

...RESPONDENTS/RESPONDENTS

(Respondents 4 to 10 are not necessary in the Petition)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim direction granted in WPMP No. 30448 of 2011 in WP No. 24766 of 2011 dated 05-09-2011.

I.A. NO: 2 OF 2012(WPMP. NO: 23632 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to order permitting the petitioner to file documents Ex.R1 to R20 annexed to the petition being filed on behalf of Petitioner/3rd Respondent for better adjudication of the issues involved in the main WP No. 24766 of 2011, in the interest of justice and fair play.

Counsel for the Petitioner : SRI G. V. S. GANESH

Counsel for the Respondent Nos.1 & 2 : GP FOR LABOUR

Counsel for the Respondent No.3 : SRI V. VENUGOPALA RAO

Counsel for the Respondent Nos.4 to 10 : SRI E. SAMBASIVA PRATAP

The Court made the following: ORDER

APHC010055502011

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3457]**
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

Writ Petition No.24766 of 2011

Between:

Larsen & Toubro Limited ...Petitioner

AND

The Chairman-cum-Presiding Officer and Others
...Respondents

Counsel for the Petitioner : Sri. G.V.S.Ganesh

Counsel for the Respondents : Learned GP for Labour
Sri. E.Sambasiva Pratap

The Court made the following Order :

1. The petitioner is challenging the award passed by the Labour Court in ID.No.271 of 2005, dated 01.07.2011. The petitioner is also seeking a direction for calling for records relating to GO.Rt.No.125, dated 05.08.2011, issued by the 2nd respondent, which resulted in the passing of the above award in the writ petition under challenge.

2. Sri. C.R.Sridharan, learned senior counsel, appeared virtually online on behalf of the petitioner, who is challenging the award passed by the Labour Court on the following grounds.

(a) The 3rd respondent is not competent to espouse the cause of the workers as the same is not a recognized union.

(b) The Labour Court has not adjudicated the core issue on merits and has passed an award without any valid basis.

(c) The Labour Court has arrived at the wrong conclusion that the respondents 4 to 10 deserve to be paid wages directly by the petitioner without intermediaries or subcontractors.

3. It is submitted that the petitioner-company was entrusted with the operation and maintenance of 4 major and 15 minor Comprehensive Protected Water Supply (CPWS) Scheme of the Sri Satya Sai Water Supply Water Project Board, Anantapur District. The petitioner company had to oversee the supply of water to various municipalities covering Anantapur District and also extended their services to oversee the supply of water to the State Rural Water Supply Department (RWS).

4. The petitioner-company entered into agreements for specified periods, and the agreements for the period 01.01.2011 to 31.12.2012 are the subject of the present writ petition. In order to meet the obligations under the agreements, the petitioner had to enter into subcontracts with the local subcontractors. The subcontractors engaged workmen as required for the work.

2. The petitioner also ensured that all sub-contractors were registered under the Contract Labour Regulation Act. Some of the activists among the workmen formed a General Union (3rd respondent) and started demanding payment of bonuses and coverage under the ESI Act. The workmen ganged up against the petitioner and resorted to approaching the labour authorities seeking adjudication of their disputes. Their efforts to get the dispute referred in terms of Section 2-K of the Industrial Disputes Act were rejected by the Special Chief Secretary to Government. However, the 2nd respondent issued GORt.No.1517, dated 27.01.2005 and referred the dispute for adjudication before the Industrial Tribunal – Cum – Labour Court, Anantapur. The 2nd respondent passed the following reference "*Whether Sri Satya Sai Water Supply Project District Workers Trade Union Regd.No.2002 is justified in demanding payment of wages to the workmen and wage slips directly by Larsen and Toubro Limited, ECC Division, Anantapur*". The Labour Court proceeded to adjudicate the reference and passed the impugned award.

5. The learned senior counsel appearing for the petitioner submits that the petitioner had taken a specific stand with regard to the locus of the 3rd respondent to espouse the cause of the workmen though it is a un-recognized workers union. The Labour

Court has failed to give a finding on the preliminary objection raised by the petitioner.

6. It is also submitted that the Labour Court erred in giving undue weightage to Ex.W2 and proceeded to conclude that the workmen are entitled for payment of wages directly by the petitioner.

7. The learned senior counsel submits that the Labour Court erred in disregarding witness WW-3's admissions while adjudicating the dispute.

8. It is submitted that the petitioner never engaged in any labour on their own for the purpose of executing for overseeing and executing the contract of Water Supply. It is also submitted that the officers employed by the petitioner were working in coordination with the sub-contractors for effectively implementing the CPWS Scheme.

9. The learned senior counsel also submits that the operation and maintenance agreement with the Sri Satya Sai Water Supply Board (Board) has ceased with effect from 30.06.2021 and that the petitioner has furnished the list of sub-contractors who were engaged by the petitioner. The Board has identified another contractor in place of the petitioner for the operation and

maintenance of the water supply scheme. It is also submitted that the workers engaged by the sub-contractors are continued in the project by the new contractor.

10. The learned senior counsel appearing on behalf of the petitioner places reliance on the following judgments **Employers of Express Newspapers (Private) Ltd., Madras Vs. Labour Court, Andhra Pradesh, Hyderabad and Ors**[1]**.** The Division Bench of this Court held that the industrial dispute as defined in Section 2-K of the Act, it must be such as would affect large groups of workmen and their employer ranged on opposite sides. A dispute between an employee and his or their employer is only an individual dispute and not an industrial dispute and as such falls outside the pale of the Act. The Act is primarily meant to regulate the relations between management and the labour. The Division Bench found that the employees union which was espousing the cause of labour was found ineligible to do so. **Steel Authority of India Ltd and others Vs. National Union Waterfront Workers and others**[2]**.** The Hon'ble Supreme Court has dealt with the various aspects of regulation of contract labour and has upheld the contention of the Steel Authority of India with regard to the regulation of the contract labour.

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[1] (1962) II LLJ 200 AP

[2] (2001) 7 SCC

11. The respondents in their counter would submit that the award passed by the Labour Court has considered all the aspects and that the plea of the petitioner challenging the locus of the 3rd respondent would espouse the cause of the workmen is highly illegal and irrational. It is also submitted that the respondents were workmen who were at the disposal of the petitioner company and had worked for a considerable period of time under the guidance of the officers of the petitioner.

12. The learned counsel appearing for the respondents submits that the Labour Court has gone into minute aspects of the arrangement between the petitioner and the workmen and thus gave a categorical finding which does not require any relook by this Court.

13. Emphasis is placed on the Ex.W2, the copy of agreement dated 20.12.2003 which resolved the disputes between the petitioner and the respondents 3 to 10. It is also submitted that the petitioner cannot feign ignorance on the execution of the agreement dated 20.12.2003.

14. It is submitted that the workmen are poor and have no financial strength to fight the litigation with the mighty petitioner and, as such, have chosen the union to espouse their cause. It is also submitted that when the workers have decided to repose faith on

the union for taking forward the fight for their dues, the petitioner cannot harp on technicalities and try to escape from their moral and legal obligation.

15. Heard the learned senior counsel for the petitioner and the learned counsel appearing on behalf of respondent No.3 and perused the material on record.

Consideration of the Court :

16. This Court vide order dated 05.09.2011, while admitting the writ petition granted interim suspension as prayed for. The interim orders were made absolute on 04.07.2012. The impugned award passed in ID.No.271 of 2005 does not give a finding on the maintainability of the dispute initiated by the 3rd respondent. The 1st respondent has registered ID on receipt of the reference from the 2nd respondent. However, there is no finding on the preliminary objection raised by the petitioner.

17. The documents submitted by the 3rd respondent before the Labour Court do not reflect any employee and employer relationship between the petitioner and the workmen. The reliance of the learned counsel for the respondents on the payments made towards the provident fund scheme on account of the death of one of the workers does not imply that the

workman was an employee of the petitioner. It is evident that the provident fund settlement would only indicate that the deceased/workmen was a member of the employees provident fund scheme.

18. In so far as the agreement dated 20.12.2003 is concerned, this Court finds that the agreement is as vague as anything. It is not executed on any stamp paper, nor does it imply that it was executed on behalf of the petitioner. The entire agreement does not even refer to the name of the petitioner anywhere. The alleged representatives who executed the agreement are not named, nor are their designations specified. Such agreements cannot form a basis for holding the respondent workmen as employees of the petitioner in the absence of any document to substantiate the claim of the petitioner, the impugned award passed by the Labour Court has a manifest error, as such the impugned award deserves to be set aside.

19. The other submission on behalf of the petitioner that the petitioner's operation and maintenance agreement liability has seized with effect from 30.06.2021 and that the new contractor engaged the workmen would imply that the respondents were never engaged directly by the petitioner for being eligible for

drawing salary and other benefits directly from the petitioner. For these reasons, the impugned award is hereby set aside.

20. Accordingly, the writ petition is allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

That Rule Nisi has been made absolute as above witness the Hon'ble Sri Dhiraj Singh Thakur, The Chief Justice on this Tuesday, The Tenth day of December, Two Thousand and Twenty Four.

SD/- K KASIRAO ACHARI
ASSISTANT REGISTRAR

//TRUE COPY//

Per CA
SECTION OFFICER

To,

1. The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapur.
2. The Joint Secretary to Government, Government of Andhra PRadesh, Labour Court, Anantapur
3. The Satya Sai Water Supply Project District, Wrokers Trade Union, Regd. No. F-2002, Anantapur.
4. One CC to Sri G. V. S. Ganesh, Advocate [OPUC]
5. Two CCs to GP for Labour, High Court of Andhra Pradesh. [OUT]
6. One CC to Sri E. Sambasiva Pratap, Advocate [OPUC]
7. One CC to Sri V. Venugopala Rao, Advocate (OPUC)
8. Three C.D. Copies.

Cnr

HIGH COURT

DATED:10/12/2024

ORDER

WP.No.24766 of 2011

ALLOWING THE W.P.
WITHOUT CSOTS