

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

H.C.P.No.1299 of 2020

C.M. Sivababu, M/A, 52 years,
President,
Tamil Desiya Makkal Katchi,
180/32, Iyyakannu Mudaliar Street,
Tiruvannamalai 606 601.

..Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to
the Government,
Labour and Employment Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The District Collector and
District Magistrate of Kancheepuram,
Vengikkal,
Tiruvannamalai – 606 604.
3. The District Collector,
Collectorate Office,
State Bank Road,
Gopalapuram,
Coimbatore 641 018.

4. The District Collector,
Collectorate,
Karuppa Gaundanpalayam,
Tiruppur 641 604.
5. The District Superintendent of Police,
Vengikkal,
Tiruvannamalai – 606 604.
6. Joint Commissioner of Labour,
Dr. Balasundaram Road,
Coimbatore – 641 018.
7. The Assistant Commissioner of Labour,
Labour Department,
8th Street, Gandhi Nagar,
Tiruvannamalai.
8. M/s. Chenniyappa Yarn Spinners Pvt. Ltd.,
SF No. 95/1, Mangarasa Valapalayam,
Alathurmedu, Avinashi, Tiruppur District.
9. The Superintendent of Police,
Tiruppur District.

(R9 suo motu impleaded by this Court vide order
Dated 06.08.2020)

10. The Joint Director of Industrial Health and
Safety I, Tiruppur.

(R10 suo motu impleaded by this Court vide order
Dated 07.08.2020)

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for
issue of a Writ of Habeas Corpus directing respondents 1 to 7 to produce the
detenues (1) S. Soundarya, daughter of Sankar, Female aged about 15 years (2)

Keerthana, daughter of Revathi, female, aged about 14 years (3) Pushpa, daughter of Chandra, Female aged about 15 years (4) E. Sandhya , daughter of Elumalai, female, aged about 15 years (5) Sumithra, daughter of Malar, female, aged about 15 years, and (6) P. Parameswari, daughter of Late Ponpadi, female, aged about 13 years, illegally confined by the 8th respondent and its men at the 8th respondent's premises and set the detenues at liberty.

For Petitioner :: Mr.J. Ashok

For Respondents :: Mrs.M. Prabhavathi Ram
Additional Public Prosecutor

ORDER

(Order of the Court was made by **N. KIRUBAKARAN,J.**)

The matter is heard through video-conferencing.

2. Since the Joint Director of Industrial Health and Safety I, Tiruppur is a necessary party to the proceedings, this Court suo motu impleads "*The Joint Director of Industrial Health and Safety I, Tiruppur*" as 10th respondent to the HCP.

3. Pursuant to the directions given by this Court yesterday (ie., on 06.08.2020), the Superintendent of Police, Tiruppur District, Assistant

Commissioner of Labour, Tiruppur along with Child Welfare Committee officials jointly raided the 8th respondent company and during the raid, though there was no child labour found, totally, there were 331 workers, out of whom 133 were adolescents aged between 14 to 18 years, brought from various Districts, especially from Tiruvannamalai, to work in the 8th respondent company. However, Mrs. Premalatha, Chairperson, Child Welfare Board, Tiruppur, would submit that already, a raid was conducted on 28.07.2020, by the Joint Director of Industrial Safety and Health-I, Tiruppur along with other officials, based on a complaint received through Child Helpline and during that raid, out of 95 workers (25 male, 22 female, 4 adolescent male, 42 adolescent female, 2 child labour), two child labour were found to be working. Though a few adolescents have shown interest to continue with the work in the 8th respondent company, others were not willing as the working conditions were not proper and they were also not properly paid. Even food and water charges were deducted from their salary and though they were assured a sum of Rs. 8000/- per month, they were paid only Rs.5000/-. Therefore, they were rescued and kept at “SNEHA CHILD HOME” in Tiruppur and thereafter, they were sent to the respective Districts to be handed over to their parents along with security and staff of Child Welfare Department of the respective Districts.

4. This Court also enquired some of the adolescent children working in the 8th respondent company, who were produced before this Court through Video-Conferencing. Though they have stated that they do not have any difficulty and they are comfortable working in the company, it has to be noted that they are school going children and it is not known as to how they are entrusted with work when they have to go to school. This issue also has to be gone into.

5. The tactics adopted by the 8th respondent company seems to be to get the children through brokers during the summer vacation months, namely, April-May and engage them to work in the company and pay the wages on the promise that they will be simultaneously given education by the company itself so that they will not miss the chance to pursue their higher education. On verification, though the children would state that they are being educated, it is not known as to how they can be educated while working. The statement of the children only goes to show that they have been tutored to speak in such a manner before this Court.

6. It is also brought to the notice of this Court that some of the children, who have written the Plus Two Examination are unaware that the results have been declared. When that is the position, it is very difficult to believe that the Company is providing education to them.

7. The Chairperson, Child Welfare Board, Tiruppur and the official, who represented on behalf of the Labour Department has brought to the attention of this Court that though the 8th respondent company has got licence to engage only 250 employees, more than 331 persons were found to be working, that too, most of them were adolescent employees. It is stated that most of the adolescent children were brought during the pandemic period to work in the 8th respondent company and no proper e-passes have been obtained. Besides, no covid test has been done for the children and no fitness certificate in respect of the children engaged has been produced at the time of inspection. It is not known as to how without proper e-passes, it has been possible to bring the children from one District to another District. It only implies that if money is paid, the authorities would bend and flout the Rules and without e-passes, people are traveling by bribing the authorities.

8. This is a classic case, which would demonstrate as to how corrupt Government servants utilize any situation to make illegal gain. World is affected with worst pandemic and it came to a grinding halt and people were asked to remain outside for more than two months. Slowly, the lock down is being lifted. While easing out restrictions, for travel of the people in case of emergencies, e-pass system has been introduced by the Governments. The instant case is only a tip of an iceberg and throughout the State, there are allegations that there are brokers available for getting e-passes and persons, who apply through due process are unable to get and the rate ranges from Rs.500 to Rs.2000. Media has widely reported about the instances of getting e-passes by payment to authorities. This aspect has to be looked into seriously by the Government. For the past few months, people are unable to do their work or travel from one place to another for various purposes and they are put to untold misery. Though the Government is not responsible for the present position, but some of the corrupt officials, who are involved in issuing e-passes are bent upon making booty even in this worst scenario. It is very shocking to know about such incidents and also about cut throat corrupt officials in the system. They are like cruel blood thirsty wolves and they should be dealt with iron hand.

9. In this regard, the 8th respondent has to file an affidavit as to how they have been able to bring children to work in their company premises without getting proper e-pass from Tiruvannamalai to Tiruppur.

10. It is really pathetic to hear the stories of children who, for the sake of their family, have come to work even without going to school. Parents should take care of their children and owing to their helplessness, they cannot send their children to work when the Government is providing education free of cost and also, free food apart from scholarships. Parents should make utmost use of the incentives and facilities provided by the Government instead of sending their wards to work at such a tender age depriving them of their right to education and a bright future.

11. The incident which is said to be happening in the 8th respondent company is only a tip of an iceberg as hundreds of such companies are located in Tiruppur, Coimbatore and Erode Districts and it is being said that child labour is rampant in these Districts and the circumstances and the living conditions in which the children are made to work are not appreciable. Therefore, the Police

Authorities, Labour Department and Child Welfare Committees of these Districts should be very vigilant and conduct raids regularly to eradicate child labour. Unless, the authorities are vigilant and cautious, this kind of problem cannot be prevented. In any event, this is a social menace affecting the entire society and this issue also has to be addressed simultaneously.

12. The Superintendent of Police, Tiruppur District, who is present before this Court through video conferencing would submit that an FIR has been registered in Cheyyur Police Station in Crime No. 1326 of 2020 under Sections 269 and 271 IPC against the Managing Director and the General Manager of the 8th respondent company and the same is recorded.

13. The children can be handed over to the parents through the Child Welfare Committee.

14. Though the 9th respondent has filed a counter affidavit, the other respondents are yet to file their counter. Therefore, time is granted to file counter. Mr. S. Parthasarathy, learned counsel undertakes to file vakalath for the 8th respondent and also file counter on the next hearing date.

15. Call the matter on 20.08.2020.

(N.K.K.,J) (V.M.V.,J)
07.08.2020

nv

To

1. The Additional Chief Secretary to
the Government,
Labour and Employment Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The District Collector and
District Magistrate of Kancheepuram,
Vengikkal,
Tiruvannamalai – 606 604.
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8. The Superintendent of Police,
Tiruppur District.
9. The Joint Director of Industrial Health and
Safety I, Tiruppur.
10. The Public Prosecutor,
High Court, Chennai.

HCP No. 1299 of 2020

N.KIRUBAKARAN, J.

and

V.M. VELUMANI, J.

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