

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.1137/2008**

% **Date of decision : 13.02.2008**

Lajpat Rai Khanna Petitioner
Through: Mr.B.S.Arora, Advocate.

Versus

NCT of Delhi & Ors Respondents
Through : Mr.Mukesh Gupta, Advocate for
the respondent Nos.1 & 2.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

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| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J. (Oral)

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1. The grievance of the petitioner is that the workman Ganesh was never employed by the petitioner who was carrying on business as a sole proprietor in the name of M/s.A.V.Industries, 212, Okhla Industrial Estate, Phase-III, New Delhi-110020 and the award was passed against his brother Mr.P.D.Khanna who was also carrying on another business as a sole proprietor under the name of M/s.A.V.Industries from the same premises, however, the award is implemented against him though the respondent no.3 was never

employed by him.

2. The learned counsel for the petitioner has drawn my attention to order dated 4th December, 2002 where the authorized representative of the management Sh.Anand Jha had sought adjournment due to death of Sh.P.D.Khanna, owner of the management. The petitioner contends that Sh.Anand Jha was never appointed by him as an authorized representative. The petitioner also contends that his brother had shifted his business which was carried on by him under the name and style of M/s.A.V.Industries (P) Ltd in 1999 and under a family settlement the entire premises is under the possession of the petitioner who is carrying on business under the name and style of M/s A.V.Industries (P) Ltd where respondent no.3 was never employed nor the award is passed against his business.

3. The award dated 20th March, 2006 is passed against M/s A.V.Industries, 212, Okhla Industrial Estate, Phase-III, New Delhi-110020 without specifying as to who is the proprietor of the said firm pursuant to the claim filed by the respondent on 5th April, 1999.

4. The petitioner contends that though he has made a representation dated 13th December, 2007 that the award dated 20th March, 2006 has not been passed against the petitioner's firm as the respondent No.3 workman was allegedly an employee of M/s A.V.Industries whose sole proprietor was Sh.P.D.Khanna but it is

enforced against him without deciding his pleas and contentions and objections.

5. From the orders of the Labor Court which has been relied on by the petitioner, prima facie it appears that the owner of the management was Shri P.D.Khanna and not the petitioner. Therefore, unless it is decided that the claim of the workman was against the petitioner or not, it will not be appropriate to enforce the award against the petitioner, in the facts and circumstances of the present case.

6. In the facts and circumstances it will be just and appropriate and in the interest of justice for the respondent Nos.1 & 2 to decide the representation/objections of the petitioner that the respondent no.3 was not his employee and not employed by him and the award dated 20th March, 2006 was not passed against him before enforcing and executing the award against the petitioner.

7. In the circumstances the writ petition is disposed of with a direction to the respondent Nos.1 & 2 to dispose of the representation/objections dated 13th December, 2007 of the petitioner within four weeks. In case it is decided after hearing the petitioner and considering his pleas and contentions that the award was passed against his firm/business, only then the award 20th March, 2006 be enforced against the petitioner. In the circumstances, till the

representation/objections dated 13th December, 2007 of the petitioner are adjudicated, the award dated 20th March, 2006 be not executed against the petitioner. With these directions the writ petition and application in the writ petition are disposed of.

Dasti to the parties.

February 13th , 2008.
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ANIL KUMAR, J.