

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 465 of 2024

Shri Simal Majumder and 13 Others

---Petitioner(s)

Versus

The Union of India and 3 Others.

---Respondent(s)

For Petitioner(s)	:	Ms. P. Sen, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI .

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

11.07.2024

Heard Ms. P. Sen, learned counsel for the petitioner and also heard Mr. B. Majumder, learned counsel for the respondents-Union of India.

[2] This is a petition under Article 226 of the Constitution of India for seeking the following relief(s):

- a) Admit the Petition*
- b) Call for the records*
- c) Issue Rule NISI directing the respondents to show cause as to why a writ of Prohibition shall not be issued thereby prohibiting the respondents from disengaging/ terminating the petitioners as well as the other casual labourers till the Central Industrial Tribunal-cum Labour Court decides on the issue of reference as per order dated 30/07/2019.*
- d) Pending disposal of the Rule Your Lordships may be pleased to direct the respondents not to disengage the petitioners as well as other casual labourers under the Aizwal circle of ASI by forbidding the Respondent Authority from issuing Notice Inviting Tenders for outsourcing of manpower for the work done by the casual labourers in various places and/or pass any such further order or orders as Your Lordships may deem fit and proper for the ends of justice.*
- e) Issue Writ(s) in the light of the prayers made above and make the Rule absolute,*
- f) Any other order or orders as this Hon'ble Court deems fit and proper under the facts and circumstances of the case may kindly be passed.*

[3] It is the case of the petitioners that the Archaeological Survey of India Workers' Union, North East Region represented before the Deputy Chief Labour Commissioner (Central) Guwahati regarding outsourcing of manpower and increase in wages vide representation dated 25.09.2017. This led to the initiation of Conciliation Proceeding under the Regional Labour Commissioner (Central) Guwahati and the said

conciliation proceeding was held between the Union and the management of Archaeological Survey of India (i.e. ASI). Subsequently, there was failure of conciliation. The matter was referred to Central Govt. Industrial Tribunal-cum-Labour Court at Guwahati on the issue of "Whether the action of management of Archaeological Survey of India (i) to outsource the employment of departmental casual labourers and (ii) denial wages at the rate of 1/30 of minimum time-scale of pay of respective category plus DA for 8 hours a day is legal and justified?" Meanwhile the management of ASI, Aizwal Circle issued Notice Inviting Tenders for outsourcing of manpower for work done by casual labourers. Immediately the Union, approached the Hon'ble Gauhati High Court in WP(C)No. 6223 of 2019 and Hon'ble Gauhati High Court by its order dated 30-08-2019 restrained from proceeding with NIT and not to disengage the Workmen from their service till final order of CGIT. The matter has since been pending before the Industrial Tribunal at Guwahati vide reference case no 7 of 2019 along with misc case No 01 of 2020. The matter has been pending before the Central Govt. Industrial Tribunal-cum-Labour Court at Guwahati due to non availability of regular incumbent Presiding Officer. During the pendency of the reference case, the ASI issued NITs in blatant violation of the Hon'ble Gauhati High Court order and once again going to issue fresh Notice Inviting Tenders (NITs) for outsourcing of manpower. If during the pendency of reference case before industrial tribunal, the petitioners are disengaged and the NITs are allowed to be issued further, the petitioners would be seriously prejudiced and they will suffer irreparable losses. Hence this petition.

[4] Mr. B. Majumder, learned Deputy SGI appearing for the respondents-Union of India has submitted before this court that present petition is not maintainable since it is a premature stage to decide the fate of the case and prayed to dismiss the case.

[5] It is seen from the record that there is no cause of action. The documents filed and the contention made in the affidavit all relates to the development made in the

year 2017 and 2019 and presently, we are in 2024. Even on the ground of laches, this Court is not inclined to go into the issues and decide the matter at this juncture. Stating thus, mandamus cannot be issued under Article 226 where the petitioners neither have challenged the action of the respondents nor have pointed out which proceeding are impugned against the rights of the petitioners construed under Constitution of India. It appears from the above discussion that the petitioners have not approached this Court with clean hands. Therefore, the present petition is liable to be dismissed.

[6] Accordingly, the present petition stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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