

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18273 of 2011

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Raghavendra Kumar, son of Anand Bihari Singh, resident of Mohalla-Sheopuri (Teacher's Colony), Ahiyapur, Police Station- Ahiyapur, District-Muzaffarpur

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Labour, New Delhi
2. Regional Labour Commissioner (Central) Patna, Maurya Lok Complex, A-Block, 2nd Floor, Room No.-6, Patna-1
3. Labour Enforcement Officer (Central) Motihari, At Belisarai, Near Pradip Hotel, Motihari, Post Office- Motihari, Distt.- Motihari

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shyam Nandan Choudhary

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 19-08-2015 Today again on call, none appeared on behalf of the Respondents, whereas on 14.07. 2015 the case was adjourned on the prayer made by Sri S.D. Sanjay, learned Assistant Solicitor General for filing counter affidavit. Till date, no counter affidavit has been filed. Yesterday also, the case was passed over.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 07.09.2011 passed by the Respondent no.2/ Regional Labour Commissioner (Central), Patna. By the said order, the complaint filed by the Labour Enforcement Officer (Central), Motihari was entertained by the Labour Commissioner, in which an allegation was made that the petitioner, who was

contractor, was paying lesser wage to five workers, which was less than the minimum rates of wages. The Regional Labour Commissioner directed the petitioner to pay Rs.14,850/- through Account Payee Bank Draft in favour of Accounts Officer, PAO(DGMS) Dhanbad.

Learned counsel for the petitioner submits that it is evident from the impugned order that the case was decided *ex parte*. He further submits that from the order impugned, it is further evident that though the petitioner has been alleged regarding payment of lesser wages to five workers, there is no indication as to who were such workers and no name has been mentioned. Learned counsel for the petitioner has further taken stand that in absence of petitioner or his authorized representative, inspection was earlier done by the Respondent no.3/Labour Enforcement Officer(Central), Motihari and, thereafter, the petitioner had filed a detailed explanation before Respondent no.3, but without considering the facts and circumstances, he filed a complaint and the learned Regional Labour Commissioner (Central) without considering the facts and circumstances has directed to pay the aforesaid amount.

Sri S.D.Sanjay, learned Addl. Solicitor General appeared and tried to justify at the time of recording the order.

Besides hearing learned counsel for the petitioner, I have also perused the materials available on record. On perusal of impugned order, two points emerged that the case was decided *ex parte* and nothing has been indicated as to on which date the petitioner was noticed to appear in the case and the Regional Labour Commissioner has not bothered to indicate the names of workers, who were paid less wages.

In view of facts and circumstances, particularly the fact that there is no indication of names of workers as well as the fact that the order was passed without hearing, the Court has got no option, but to set aside the same. Accordingly the order contained in Annexure-5 passed by the Regional Labour Commissioner (Central), Patna is hereby set aside.

The writ petition stands allowed.

(Rakesh Kumar, J)

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