

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14174 of 2013

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India Tabacco Staff Workers Union through its President Sri Garib Das
alisa Garib Das Sah, Son of Late Dhunnu Sao, Resident of Mohalla - Lal
Darwaza, Police Station - Kotwali, District – Munger.

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Labour and Employment,
Bihar, Pata
2. M/s I.T.C. Limited, Munger
3. The Presiding Officer of Labour Court, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Tewary

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 21-07-2015 Heard Sri Arvind Kumar Tewary, learned counsel for
the petitioner.

The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash an order dated 16-07-2012 passed in Misc. Case No. 12 of 2003 by the learned Presiding Officer, Labour Court, Bhagalpur, whereby the learned court below entertained the primary objection, raised by the respondent, on the point of maintainability of the case and rejected the Misc. case. The petitioner had filed a case under Section 33 (c) (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the ‘Act’) with a prayer to direct the management to pay at least minimum wages to

sixty seven workers, amongst them about ten had already died. The primary objection was raised by the management taking the plea that none of the applicants were workman of the Management and never entered into any settlement with the applicants or their union. Since the dispute was raised regarding status and entitlement, the learned court below accepting the primary objection has rejected the Misc. Case No. 12 of 2003 on the point of maintainability itself.

Learned counsel for the petitioner has argued that the case was filed for computation of wages of the members of the union and as such, in terms of Section 33 (c) (2) of the Act, it was required to be adjudicated by the Labour Court.

The Court is of the opinion that power under Section 33(c) (2) of the Act is required to be invoked for the purposes of enforcement of an award or settlement in between the parties. Primarily, this power is to be exercised as execution court, not for deciding the issue. This issue has already been set at rest by the Apex Court in number of cases, particularly; in a case reported in **(1995) 1 Supreme Court Cases 235 (Municipal Corporation of Delhi –vs.- Ganesh Razak and Another)**.

In view of the fact that the matter has already been set at rest, the Court is of the opinion that the learned Labour Court,

Bhagalpur, in view of dispute raised by the management and in absence of any award of settlement, has rightly not entertained the case. There is no error in the order impugned.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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