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HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 192 of 2012**

T.V.S. Logistic Services Ltd. Reg. Office- T.V.S. Building No. 7-B, West Weler Street, Madhurai, Thur Sanjay Lal , Asstt. General Manager (H.R.), Korba, P.S. Balco Dist. Korba C.G.

---- Petitioner**Versus**

1. Assistant Labour Commissioner Korba Anors S/o Inspector Appointed Under EmPLY. Standing Orders Act 1961, P.S. Korba Dist. Korba C.G.
2. Kamal Kishore Sahu S/o Chaitram Sahu Nehru Nagar Balco Nagar Behind Aushman Clinic Sector-5, Korba, P.S. Balco Dist. Korba C.G.

---- Respondents

For Petitioner : Shri N.K. Vyas, Advocate.

Respondent No. 1/State : Shri Gary Mukhopadhyaya,
Dy. Govt. Advocate.

For Respondent No.2 : Shri S.P. Kale & Shri K.P.S.
Gandhi, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/12/2015**

(1) The focal question falling for consideration is whether Inspector appointed under Section 15(2) of the Chhattisgarh Industrial Employment (Standing Order) Act, 1961 (henceforth 'Act, 1961') has power and jurisdiction to adjudicate the dispute under the Act, 1961 ?

(2) The petitioner is contractor working as material handling system service provider with the Bharat Aluminium Company Limited (henceforth 'BALCO') as per agreement dated 19.02.2011 executed between the BALCO and the petitioner-Company. The petitioner has taken contract for material handling for three years with BALCO from 01.05.2011 to 30.04.2014. Respondent No. 2 was working with the petitioner as Senior Operator since 01.05.2011.

(3) The petitioner issued show cause notice to the respondent No. 2 as he has misbehaved with the officers of the petitioner-Company on 1.6.2012, which is said to have been refused by him, thereafter, charge sheet was issued to him on 2.6.2012. The respondent No. 2 submitted his reply to the charge sheet, which was not found satisfactory. As the reply to the charge sheet was not found satisfactory, respondent No. 2 was placed under suspension on 12.06.2012 and he was also subjected to departmental enquiry followed by charge sheet. Respondent No. 2 filed a compliant on 25.08.2012 before the respondent No. 1- Assistant Labour Commissioner, Korba and Inspector under the Act, 1961 questioning the suspension.

(4) The Inspector under the Act, 1961, by its impugned order dated 22.11.2012, directed the petitioner-Company to reinstate the services of respondent No. 2 exercising power

under Section 15 (2) of the Act, 1961, against which the instant writ petition has been filed by the petitioner-Company holding that power and jurisdiction of the Inspector under the Act, 1961 is not adjudicatory in nature and it shall be the duty of Inspector appointed under Section 15(2) of the Act, 1961 to ensure within the area of his jurisdiction, proper implementation of the provisions of this Act and the rules made thereunder and, therefore, order passed by the Inspector under the Act, 1961 is without jurisdiction and without authority of law and therefore, impugned order, being devoid of merit, deserves to be set aside.

(5) Reply has been filed by the respondent No. 2 stating *inter alia* that respondent No. 1/ Inspector has a valid jurisdiction to set aside the order of suspension and to direct the petitioner-company to reinstate his services under Section 15(2) of the Act, 1961.

(6) Learned counsel appearing for the petitioner would submit that power and jurisdiction of Inspector under Section 15(2) of the Act, 1961 is not adjudicatory in nature and therefore, order impugned is absolutely without jurisdiction and without authority of law and therefore, it deserves to be quashed.

(7) Per contra, learned counsel appearing for the respondent would submit that the order impugned is in accordance with law which does not call for any interference by this Court in exercise of power under Article 226/227 of the constitution of India.

(8) I have heard learned counsel appearing for the parties and considered their rival submissions made therein with utmost circumspection.

(9) At this stage, it would be profitable to notice Section 15(2) of the Act, 1961, which reads as under:-

“15. Appointment of Inspectors and their powers and duties.-(1) The State Government may by notification, appoint such officers of the Labour Department not below the rank of a Deputy Labour Officer, as it may think fit, to be Inspectors for the purposes of this Act. Such notification shall define the class of undertakings in respect of which and the areas within which they shall exercise their respective jurisdictions.

(2) It shall be the duty of every such Inspector to ensure within the area of his jurisdiction the proper implementation of the provisions of this Act and the rules made thereunder.

(3) xxx xxx xxx

(10) A careful perusal of Section 15(2) of the Act, 1961 would reveal that it is the duty of the Inspector to ensure within the area of his jurisdiction, proper implementation of

the provisions of the Act and Rules made thereunder and Inspector under the Act has not been conferred with the power to adjudicate any dispute under the Act, 1961 and, therefore, Inspector under the Act, 1961 has no authority to adjudicate the dispute between employer and employee.

(11) A Division Bench of this Court in the matter of Bharat Aluminium Mazdoor Sangh (INTUC) and another Vs. Managing Director, Bharat Aluminium Company Limited (BALCO) and others¹, has held that powers of Inspectors under the Act, 1961 are not adjudicatory and the Inspectors are not authorized to undertake the exercise of adjudication of disputes and exclusive jurisdiction has been conferred to the Labour Court with regard to dispute regarding application and interpretation of the Standing Orders. Paragraphs 9 & 10 of the report state as under:-

“9. If we look into various provisions of the Act, 1961, it would appear that Section 13 of the Act provides that if any question arises as to the application or interpretation of a standing order, an employer, an employee or a representatives of the employees may refer the quetion to the Labour Court having jurisdiction and the Court shall, after giving the parties an opportunity of being heard, decide the question and his decision shall be final and binding on the parties. Further Section 15 provides for appointment of Inspectors and their power and duties. Sub-section (1) of Section 15 provides that the State Government may by notification appoint such officers of the Labour

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Department not below the rank of a Deputy Labour Officer, as it may think fit, to be Inspectors for the purposes of this Act. Such notification shall define the class of undertakings in respect of which and the areas within which they shall exercise their respective jurisdictions. Sub-section (2) of Section 15 provides that it shall be the duty of every such Inspector to ensure within the area of his jurisdiction the proper implementation of the provisions of this Act and the rules made thereunder and sub-section (3) provides that an Inspector may, within the area of his jurisdiction made such inquiries and collect such information from the employers and employees as he may consider necessary for the purposes of this Act. Further, Section 17 of the Act, provides for penalties and procedure under certain circumstances. These provisions in the Act make it clear that the powers vested with the inspectors, so appointed under Section 15 of the Act, are not adjudicatory. Sub-section (2) of Section 15 which says about the duty of such Inspectors, only provides that they shall ensure the proper implementation of the provisions of the Act and the rules in their respective areas. By a clarification *vide* sub-section (3) it has been provided that the Inspectors while ensuring proper implementation may make such inquiries as they consider necessary for that purpose. Nothing has been said by the Legislature about an adjudication of the disputes raised between the parties. It appears that the concerned Inspector in the garb of ensuring proper implementation of the Act *suo motu* assumed the adjudicatory jurisdiction and has entered into deciding the disputes between the parties, particularly, the disputes in relation to application and

interpretation of standing orders, for which, a specific provision *vide* Section 13 has been provided by the Act and the exclusive jurisdiction has been vested with the Labour Court having jurisdiction over the area concerned.

“10. It is a settled principle of law that if a particular provision has been enacted by the Legislature for doing a particular act, in a particular manner, the said act shall be done in accordance with the particular provisions meant for it and not by any other strange device for the same, because in that situation any such act which goes against the specified provision would be without authority of law because the law has provided an authority for it. Had the powers of the Inspector which have been derived from sub-sections (2) and (3) of the Act would have been adjudicatory, there would have been some communication for it in the Act itself, which is not there and at the same time, a provision in the Act has been given by Section 13 for reference of a dispute, in which, a question arises as to the application or implementation of Standing Order. A conjoint reading of Sections 13, 15 and 17 of the Chhattisgarh Industrial Employment (Standing Orders) Act, 1961 makes it amply clear that the powers of Inspectors under the said Act are not adjudicatory and the Inspectors are not authorized to undertake the exercise of adjudication of the disputes, particularly the disputes regarding application and interpretation of the Standing Orders.”

(12) The law laid down by the Division Bench of this Court aptly and squarely applies to the facts of the present case, and accordingly it is held that Inspector appointed under Section 15(2) of the Act, 1961 has no authority or

jurisdiction to revoke the suspension and to direct reinstatement of respondent No. 2 by setting aside the charge sheet as the Inspector/respondent No. 1 has been conferred only with the duty to ensure the implementation of the provisions of the Act, 1961, as such, the order passed by respondent No.1/Inspector appointed under the Act, 1961 is without jurisdiction and without authority of law and the same deserves to be and is hereby quashed.

(13) Consequently, the writ petition is allowed to the extent indicated above. Order Annexure P-1 dated 22.11.2012 is hereby quashed.

(14) However, the respondent No. 2 is at liberty to proceed in accordance with law against his order of suspension.

(15) There shall be no order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

HEAD NOTE

(1) Inspector appointed under CG Industrial Employment (Standing Order) Act, 1961 has no jurisdiction to adjudicate dispute under the Act of 1961.

(1) छत्तीसगढ़ औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1961 के अधीन नियुक्त निरीक्षक को 1961 के अधिनियम के अंतर्गत विवाद को न्यायनिर्णीत करने की अधिकारिता नहीं है।