

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 46 of 2015

1. J. K. Lakshmi Cement Through Its Senior Vice President (Works), D.K. Mehta, Malpurikhurd Khasdih, Ahiwara, Tahsil Dhamdha, District Durg (Chhattisgarh)

---- Petitioner

Versus

1. Union Of India, Through : Its Secretary, Department Of Labour, New Delhi
2. Deputy Chief Labour Commissioner (Central), Raipur (Chhattisgarh)
3. Regional Labour Commissioner (Central) Raipur (Chhattisgarh)
4. P.M. Shrivastava, Deputy Chief Labour Commissioner (Central Raipur) (Chhattisgarh)
5. M/S Gannon Dunkerley & Co. Ltd. B-226 Okhla Industrial Area, Phase 1, New Delhi 110020

---- Respondent

For Petitioner

Shri Sunil Otwani, Advocate

For Respondent/UOI

Shri N.K. Vyas, Asstt. Solicitor General

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

03/07/2015

Heard learned counsel for the parties.

1. This writ petition has been preferred assailing the order dated 4-2-2015 passed by the Regional Labour Commissioner, Raipur, directing the petitioner to show cause against the contemplated legal action for violation of provisions of Section 25N of the Industrial Disputes Act, 1947 (for short 'the ID Act').
2. Learned counsel for the petitioner would submit that the workmen in question were, in fact, contract labourers engaged by the contractor of the petitioner, therefore, the petitioner not being the employer of those persons, notice under Section 25N of the ID Act is misconceived. Shri Otwani would further submit that as per the agreement between the petitioner and the respondent No.5 the services of the contract labours employed by the respondent No.5 would be governed by the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, therefore, for this reason also the impugned notice is not maintainable against the petitioner.
3. Learned Assistant Solicitor General appearing for the respondents No.1 to 4 would submit that this writ petition is against the show cause notice, therefore, it is not maintainable because the petitioner would have the opportunity to raise his grievance before the concerned authority while replying to the show cause notice and further to defend himself in the event any action is initiated against him.

4. It is well settled proposition of law that ordinarily a writ petition against a show cause notice is not maintainable unless the authority issuing the notice inherently lacks the jurisdiction to initiate the action. (See: **Bellary Steels And Alloys Limited v. Deputy Commissioner, Commercial Taxes (Assessments) and Others**¹ and **Commissioner of Income-tax, Gujarat v. Vijaybhai N. Chandrani**²).
5. In view of the above settled legal position, the writ petition is disposed of with a direction that the petitioner may submit its reply before the authority who has issued the notice and, thereafter, the authority concerned shall proceed further in accordance with law.
6. No order as to costs.

Sd/-

JUDGE

Prashant Kumar Mishra

Gowri

¹ (2009) 17 SCC 547

² 2013 AIR SCW 4675