

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No.3617/2014**

% 2nd February, 2015

NOIDA MINT EMPLOYEES UNION & ORS. Petitioners
Through: Mr. Barun Kumar Sinha, Advocate
with Mrs. Pratibha Sinha, Advocate

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Meera Bhatia, Advocate for
respondent No.1.
Mr. R.N. Singh, Advocate for
respondent No.2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner nos.2 to 9 in this writ petition are the employees of the respondent no.2/Security Printing & Minting Corporation of India Ltd. (SPMCIL). These petitioners are admittedly posted and thus working with the respondent no.2 at respondent no.3 i.e the unit of the respondent no.2 at Noida, U.P. Petitioners, by this writ petition, seek directions for the members of the petitioner no.1/Union being appointed to the posts of

Assistant Grade III Technical (W-1) with the grade pay of Rs.1,900/- instead of Rs.1,800/-.

2. As stated above, petitioners/employees are employed and working with the respondent no.3 at Noida. Petitioners have therefore performed their services and are performing their services at Noida. The benefits which will flow to the petitioners/employees, if writ petition is allowed, will also be granted to them where the petitioners are working viz at Noida, U.P. Thus, no part of the cause of action arises at Delhi. Merely because the corporate office of the employer viz the respondent no.2 is situated at Delhi, would not mean that this Court will have territorial jurisdiction because it is settled law that merely by the head office issuing any circular or notification or policy etc by a decision taken at the head office/corporate office/registered office which is situated at Delhi will not confer territorial jurisdiction to the Courts at Delhi and as is so held by the Supreme Court in the judgment in the case of ***Kusum Ingots & Alloys Ltd. Vs. Union of India (2004) 6 SCC 254*** and which has been considered by me recently in the judgment delivered in the case of ***Dr. Mukul Gupta Vs. Management Development Institute & Anr.*** in W.P.(C) No.7944/2014

decided on 27.1.2015. Paras 2 to 5 of the judgment passed in the case of **Dr.**

Mukul Gupta (supra) read as under:-

“2. Petitioner is admittedly residing in Gurgaon, Haryana. Petitioner is employed with the respondent no.1 viz Management Development Institute (MDI) at its office at Gurgaon. Petitioner has served i.e rendered services with the Management Development Institute (MDI) at Gurgaon. Petitioner has never worked with the employer-Management Development Institute (MDI) at Delhi. In this writ petition, the only prayer which is claimed is for quashing of the impugned termination letter dated 28.10.2014 by which the services of the petitioner as Director of the respondent no.1 were terminated, and admittedly, even this letter has been issued by the respondent no.1 from its Gurgaon office and it has been issued to the petitioner at his Gurgaon address.

3. I have had an occasion to consider the aspect of territorial jurisdiction of Courts for filing of writ petitions under Article 226 of the Constitution of India in W.P.(C) No. 1851/2013 titled as **Bharat Electronic Technical Cadre Association & Anr. Vs. Union of India & Ors.** decided on 12.4.2013 and in which judgment, I have referred to the earlier judgments of the Supreme Court in the cases of **Eastern Coalfields Ltd. & Ors. Vs. Kalyan Banerjee (2008) 3 SCC 456** and **Kusum Ingots & Alloys Ltd. Vs. Union of India (2004) 6 SCC 254**. The relevant paras of the judgment have been referred to show that every fact is not part of the cause of action but only those facts which are co-relatable to the reliefs claimed in the writ petition, and are therefore an essential part of the cause of action, would be facts which if arise within the jurisdiction of this Court, would give territorial jurisdiction to this Court. The judgment of the Supreme Court in **Kusum Ingots & Alloys Ltd. (supra)** is referred to and which states that merely because a registered office of the employer is situated at Delhi, and which issues an executive order or instruction, would not confer territorial jurisdiction of this Court only because of the situs of the office of the maker thereof.

4. The relevant paragraph of the judgment in the case of *Bharat Electronic Technical Cadre Association (supra)* are paras 8 to 11 and which read as under:-

"8. A reading of the prayer clauses shows that the reliefs which have been claimed are against the employer-respondent no.3. The respondent no.3 is not situated in Delhi and the petitioners are not serving the respondent no.3 in Delhi but at Ghaziabad. Prayer in the petition is for quashing of the letter dated 12.5.2009, and which is a letter issued by the employer-respondent no-3, not at Delhi but at Bangalore, for revision of scales of pay and allowances of the executives. Other reliefs with respect to restoring of benefits and for refunding of amounts are also the reliefs which are claimed against the employer-respondent no.3. Merely because the employer/respondent no.3 will have to implement the notifications issued by the respondent no.1 will not mean that Delhi High Court would have jurisdiction because the notifications have been issued in Delhi because in this case there is no challenge for quashing of the notifications, but reliefs are claimed for implementation of the notifications, and which implementation necessarily will have to be done either at Bangalore where the respondent no.3 is situated or at the place of work of the petitioners which is at Ghaziabad i.e not Delhi.

9. In fact, the judgment which is relied upon by the petitioners answers the issue of territorial jurisdiction squarely against the petitioners and paras 7 and 8 are relevant and they read as under:-

"7. 'Cause of action', for the purpose of Article 226(2) of the Constitution of India, for all intent and purport, must be assigned the same meaning as envisaged under Section 20(c) of the Code of Civil Procedure. It means a bundle of facts which are required to be proved. The entire bundle of facts pleaded, however, need not constitute a cause of action as what is necessary to be proved is **material facts** whereupon a writ petition can be allowed.

The question to some extent was considered by a Three-Judge Bench of this Court in Kusum Ingots & Alloys Ltd. v. [Union of India and Anr. MANU/SC/0430/2004](#) : 2004(186)ELT3(SC) stating:

18. The facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be granted. **Those facts which have nothing to do with the prayer made therein cannot be said to give rise to a cause of action which would confer jurisdiction on the Court.**

As regards the question as to whether situs of office of the appellant would be relevant, this Court noticed decisions of this Court in Nasiruddin v. [State Transport Appellate Tribunal MANU/SC/0026/1975](#) : [1976]1SCR505 and U.P. Rashtriya Chini Mill Adhikari Parishad, Lucknow v. [State of U.P. and Ors. MANU/SC/0422/1995](#) : AIR1995SC2148 to hold:

26. The view taken by this Court in U.P. Rashtriya Chini Mill Adhikari Parishad that the situs of issue of an order or notification by the Government would come within the meaning of the expression "cases arising" in Clause 14 of the (Amalgamation) Order is not a correct view of law for the reason hereafter stated and to that extent the said decision is overruled. In fact, a legislation, it is trite, is not confined to a statute enacted by Parliament or the legislature of a State, which would include delegated legislation and subordinate legislation or an executive order made by the Union of India, State or any other statutory authority. In a case where the field is not covered by any statutory rule, executive instructions issued in this behalf shall also come within the purview thereof. **Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action or cases arising. In other words, framing of a statute, statutory rule or issue of an executive order or instruction would not confer**

jurisdiction upon a court only because of the situs of the office of the maker thereof. 27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority.

8. Kusum Ingots & Alloys Ltd. (supra) has been followed by this Court in Mosaraf Hossain Khan v. [Bhagheeratha Engg. Ltd. and Ors.](#) [MANU/SC/8067/2006](#) : 2006CriLJ1683 stating:

26. In Kusum Ingots & Alloys Ltd. v. Union of India 14 a three-Judge Bench of this Court clearly held that with a view to determine the jurisdiction of one High Court vis--vis the other the facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be made and the facts which have nothing to do therewith cannot give rise to a cause of action to invoke the jurisdiction of a court. In that case it was clearly held that only because the High Court within whose jurisdiction a legislation is passed, it would not have the sole territorial jurisdiction but all the High Courts where cause of action arises, will have jurisdiction.....”

(emphasis added)

10. A reading of the aforesaid paras show that the entire bundle of facts which are pleaded need not constitute a cause of action and what is necessary to be proved is material fact whereupon a writ petition can be allowed. It is clarified

by the Supreme Court in the case of *Eastern Coalfields Ltd.(supra)* by reference to the earlier Three-Judge Bench judgment of the Supreme Court in the case of *Kusum Ingots & Alloys Ltd. Vs. Union of India (2004) 6 SCC 254* that facts pleaded in the writ petition must have a nexus to the prayers and on the basis of which reliefs can be granted. To the facts which have nothing to do with the prayers made, the same cannot be said to give rise to a cause of action which would confer jurisdiction on this Court. Therefore, it is quite clear that only those facts which would ultimately lead to the reliefs claimed in this writ petition would be the bundle of facts constituting the cause of action and not the other facts/bundle of facts. Stray facts which have to be alleged in the writ petition are not the material facts which only constitute the cause of action, and, only the material facts which constitute cause of action decides where the territorial jurisdiction arises.

11. Since, as already stated above, the reliefs which are claimed can only be granted either at Bangalore or at Ghaziabad and only implementation is sought of the circulars of the Union of India which have to be implemented by the respondent no.3 either at Bangalore or at Ghaziabad, this Court would not have territorial jurisdiction on the basis that the circulars are issued by the respondent no.1/Ministry of Heavy Industries and Public Enterprises at Delhi.”

(emphasis is mine)

5. No doubt, the decision with respect to termination of employment of the petitioner was taken at Delhi, but that decision will have to be implemented qua the services of the petitioner at Gurgaon and while the petitioner was posted. Thus mere situs of the maker of the decision as held by the Supreme Court in the case of *Kusum Ingots & Alloys Ltd. (supra)* will not confer territorial jurisdiction. I therefore cannot accede to the argument urged on behalf of the petitioner by placing reliance upon the language of Annexure P-14-termination letter dated 28.10.2014, that this will confer territorial jurisdiction of this Court because the same refers to the decision of the Board of Governors of MDI which took place at

Delhi. As already stated above, mere situs of office/maker which takes a decision will not confer territorial jurisdiction once that decision has to be implemented at a different place, and which in this is where the petitioner has rendered services viz at Gurgaon. Consequently, the situs of the registered office of respondent no.1 at Delhi would not confer territorial jurisdiction of this Court as argued by the petitioner, and more so because an internal decision which is not communicated does not give rise to any rights vide ***Bachhittar Singh Vs. The State of Punjab, AIR 1963 SC 395.***

(emphasis supplied)

3. The facts of the present case are more or less identical with the facts in the case of ***Dr. Mukul Gupta (supra)*** and therefore the present writ petition is liable to be dismissed.

4. Learned counsel for the petitioner argued before this Court that this Court has territorial jurisdiction on account of the following aspects:-

(i) The Sixth Central Pay Commission Report was given in Delhi, and benefit of which the petitioners are claiming in Delhi, and therefore this Court has territorial jurisdiction.

(ii) The corporate office of the employer is situated at Delhi which will take the decision, and therefore this Court would have territorial jurisdiction.

(iii) The city of Noida is situated within the National Capital Region and therefore this Court would have jurisdiction in view of Section 27 of the National Capital Region Planning Board Act, 1985 (hereinafter referred to as 'the Act').

5. None of the arguments urged on behalf of the petitioner have any merit and which arguments are rejected for the reasons stated hereinafter.

6. The first argument that the Sixth Central Pay Commission Report has been given in Delhi and therefore this Court will have territorial jurisdiction, is an argument which has no substance because the Sixth Central Pay Commission Report was given qua government employees and the petitioners are admittedly not government employees but they are employees of respondent no.2 and working with the respondent no.3 (which is the unit of the respondent no.2) at Noida. Taking that the Sixth Central Pay Commission Report has to be implemented qua the employees of the respondent no.2 who are posted at Noida, yet, this Court would have no territorial jurisdiction even if the Sixth Central Pay Commission report is to be given effect by the respondent no.2 being the corporate office, inasmuch as, the actual implementation by giving of service benefits to the petitioners/employees will not be at Delhi but will only and only be at Noida, U.P. In the case of *Kusum Ingots & Alloys Ltd. (supra)* the Supreme Court has clarified that issuing of circulars, notifications, executive orders or instructions would not confer territorial jurisdiction on Courts only because of the situs of the office of the maker thereof. Therefore, merely
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because the situs of the office of the maker of an executive order or instructions passed or will be passed, is by the respondent no.2 being the corporate office at Delhi the same will not give territorial jurisdiction to this Court inasmuch as the necessary executive order or the instructions or the policy which emanates from that executive order or instructions or office memorandum will have to be given effect to and implemented at the office of the petitioners/employees at Noida, U.P. and the situs of issuing of this office order or executive instructions or police decision or instructions being an immaterial aspect qua territorial jurisdiction as held by the Supreme Court in the case of *Kusum Ingots & Alloys Ltd. (supra)*. The first argument urged on behalf of the petitioner is therefore rejected.

7. The second argument of the corporate office being situated in Delhi and which will give territorial jurisdiction to Delhi will stand decided in terms of the first argument which is rejected.

8. The third argument urged on behalf of the petitioner that this Court would have territorial jurisdiction in view of Section 27 of the Act is once again an argument without merit and let us therefore refer to Section 27 of the Act which reads as under:-

“Section 27. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in

any instrument having effect by virtue of any law other than this Act; or in any decree or order of any Court, tribunal or other authority.”

9. All that Section 27 of the Act states is that the provision of this Act will have an effect notwithstanding anything inconsistent thereof in any other law, however, the said provision in no way makes the cause of action arise in Delhi because this provision does not state that a cause of action arising in Noida automatically arises in Delhi merely because Noida is covered in the National Capital Region. Noida is covered in the National Capital Region only for the purpose of said 1985 Act which is only for development of the National Capital Region as per the Act. The Act does not change the law with respect to the arising of cause of action qua the territorial jurisdiction of Courts. The third argument urged on behalf of the petitioner is also therefore rejected.

10. In view of the above, there is no merit in the petition, and the same is therefore dismissed with costs of Rs.15,000/- payable to the Prime Minister's National Relief Fund within a period of four weeks from today. I may note that after hearing the arguments and before passing of the judgment, I asked the petitioner whether the petitioner is interested, in the facts of the present case, for this Court to pass a judgment or this Court should give liberty to the petitioner to approach the competent court at
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Noida, however, counsel for the petitioner insisted that a judgment be passed.

11. List before the Registrar on 24th March, 2015 for compliance of the order with respect to payment of costs.

FEBRUARY 02, 2015
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VALMIKI J. MEHTA, J