

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No 35 of 2016

IN

LPA 742 of 2009

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Ram Briksh Sah Son of late Ramji Sah Resident of Village Kanhauli Bishundutt,
Bela Imli Chowk Po R.K. Ashram Bela PS Mithanpura, District Muzaffarpur.

.... Petitioner/s

Versus

1. The Bihar Industrial Area Development through Its Managing Director Udyog Bhawan East Gandhi Maidan Patna -4
2. The Secretary, the Bihar Industrial Area Development Udyog Bhawan East Gandhi Maidan Patna -4
3. The Managing Director, the Bihar Industrial Area Development Udyog Bhawan East Gandhi Maidan Patna -4
4. The Executive Director, Regional Office, Patna Bihar Industrial Area, Development Authority.
5. Jainendra Kumar Son of late Hari Nandan Prasad Singh Resident of village-Gopaichak, PS saksohra, District Patna.

.... Respondent/s

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For the Petitioner/s : Mr Prashant Sinha, Advocate

For the Respondent/s : Mr Rajeev Ranjan Prasad, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
&
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 19-04-2016

IA No 898 of 2016 has been filed for condoning the delay in
filing this review application.

2 Heard the learned counsel for the review petitioner and the
learned counsel for the Bihar Industrial Area Development Authority
(for brevity, *BIADA*).

3 Learned counsel for the review petitioner submits that the



review petitioner was not a party to the proceedings before the Division Bench but recently when writ petition of the petitioner was taken up by the learned Single Judge, it was dismissed on the ground that the Division Bench had disposed of the appeal in respect of other proceedings, allegedly similarly situated, with certain directions considering the alleged agreement by the Labour Union, brought on record, and that order deprived the workers of their wages for the period they had not worked. It is upon dismissal of the writ petition that it became necessary for the review petitioner to seek review of the order dated 10.08.2009 passed in Letters Patent Appeal No 742 of 2009 and analogous cases. It is pointed out that the review petitioner was not a party to any of those cases. The prayer of the petitioner, thus, is that the order having been passed, having application to all the workers without workers being heard individually, the order would not bind persons, who were not parties. It is again pointed out that when this very Union purported to file a writ petition being CWJC No 13326 of 2010 challenging the regulations made by the BIADA, upon objection of the learned counsel for BIADA, the writ petition was permitted to be withdrawn as the Union was not a registered Labour Union and had no locus in the matter and could not represent the workers.

4 Having considered the matter, the delay in filing this

review application is condoned.

5 In view of what has been noted above, it is obvious that the order passed by the Division Bench would not operate against the petitioner. Each case has to be considered on its individual merit. Before the Division Bench, it was the unregistered Labour Union whose agreement with the Management was filed, Union itself was not even a party. The writ petitioners, who were respondents in those appeals, had agreed to abide by the said agreement. Thus, to that extent, the order would bind those persons, who were parties before it and not any other. One other ground of distinction is that though the others, who were before the Division Bench, accepted the position that they had gone on strike, were dismissed by the Managing Director, and then were allowed joining, the present review petitioner does not accept that position, rather his stand was that he continued to work notwithstanding other employees going on strike. He was dismissed and he then preferred statutory appeal before the appellate authority which appeal was allowed and his dismissal was set aside. His case would be different.

6 We see no reason to take a different view of the matter. As noted above, the Division Bench order would operate only against parties, who were present before the Division Bench.

7 For the reasons noted above, this review application, thus,

stands disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

AFR	AFR
CAV DATE	
Uploading Date	21.04.2016
Transmission Date	