

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1904 of 2012

IN

Civil Writ Jurisdiction Case No. 18226 of 2012

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1. The State of Bihar through the Principal Secretary, Department of Labour Resources, Government of Bihar, Patna.
 2. The Principal Secretary, Department of Labour Resources, Government of Bihar, Patna.
 3. The Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna. Appellants.

Versus

1. Food and Allied Workers Union, (Registration No. 1718), Ashiyana Nagar, Patna through its General Secretary Ram Dayal Singh, Son of Late Ramshlok Singh, permanent resident of Village + P.O. Dhamar, P.S. Ara Mufassil, District- Bhojpur.
 2. The Bihar State Food and Civil Supplies Corporation Ltd. Sonebhawan, Patna Through Managing Director
 3. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Sonebhawan. Respondents.
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Appearance :

For the Appellants : Mr. Ranjeet Kumar, AC to PAAG
Mr. Ajay Kumar Sharma, Adv.

For the Respondent No.1 : Md. Anis Akhtar, Adv.

For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 01-04-2016

The State, the Principal Secretary, Department of Labour Resources, and the Principal Secretary, Department of Food and Civil Supply are the appellants, being aggrieved by the judgment and order dated 01.10.2012 passed in C.W.J.C. No.18226 of 2012.

We have heard learned counsels for the State, writ petitioner/respondent and Bihar State Food and Civil

Supplies Corporation Limited (in brevity 'BSFC') and, with their consent, this appeal is being disposed of at this stage itself.

Food and Allied Workers Union, a registered Trade Union, on behalf of its members had filed the writ petition for a direction to the State and the BSFC to pay wages to the loaders, at least minimum wages, as notified by the State Government from time to time.

It appears that before the learned Single Judge there was no dispute that the minimum wages, having been fixed in the year 2006, were revised in the years 2010, 2011 and 2012. The revisions were upward revisions, yet the BSFC was continuing to pay the unrevised minimum wage. There was no dispute on this. The learned Single Judge issued mandamus directing the BSFC to make payments accordingly, which were statutory liability, the Corporation being the State owned undertaking. The learned Single Judge then noticed that there had been admittedly violation of provisions of the Minimum Wages Act and directed for criminal prosecution of the Managing Director of the BSFC as well as the other appellants. The appellants, as noticed above, had taken the plea that the BSFC is a body corporate and the appellants not being part of its management could not have been ordered to be prosecuted.

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Having considered the matter, in our view, the submission advanced on behalf of the appellants is correct. BSFC, though a State undertaking, is independent corporate entity distinguished from the State. It may be State for the purposes of Article-12 of the Constitution and the State may have other liabilities in respect of the BSFC, with which we are not concerned at this moment, but, certainly State cannot be prosecuted for failure of the BSFC to comply with statutory liabilities. Thus, to the extent as noted above, the order of the learned Single Judge cannot be sustained and has to be set aside.

Accordingly, to the extent as noted above, this appeal is, accordingly, allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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