

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20577 of 2011

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1. M/S National Building Construction Corporation. Ltd (A Govt. Of India Enterprises) Through Sri A.K. Pandey Addl. General Manager, Unit Office Ntpc Town Ship Works Stpp Barh, District Patna

.... Petitioner/s

Versus

1. The Union Of India
2. The Deputy Chief Labour Commissioner (Central) and Director General (Inspection) Under BOCW (RE & CS) Act, 1996 Ministry Of Labour And Employment , Shram Shakti Bhawan, Rafi Marg, New Delhi - 110001
3. The Regional Labour Commissioner, Ministry of Labour And Employment , Shram Shakti Bhawan, Rafi Marg, New Delhi - 110001
4. The Labour Enforcement Officer (Central) Patna, Ministry of Labour And Employment Maurya Lok Complex, 2nd Floor, A- Block, Room No. 6 And 16, Patna - 800001
5. The Labour Enforcement Officer (Central) Gaya, Ministry of Labour And Employment Tekari Road, Delha, Gaya, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha

For the Respondent/s : Mr. Awadhesh Kumar Pandey, SCGC

For the Union of India : Mr. Ravinder Kumar Sharma.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 18-03-2016

Heard the Counsel for the petitioner and the Union of India.

On a complaint filed by the Labour Enforcement Officer (C), Patna against the petitioner of having breached the provisions contained in Section 50(1) of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (for short 'the Act') and the Central Rules framed thereunder, a notice was issued on 2nd September, 2011 (Annexure-3) by the Regional Labour Commissioner (Central) calling upon the petitioner



to file written submission before the Deputy Chief Labour Commissioner (Central) and Director General (Inspections) under the Act. It is stated in paragraph 6 that a show cause petition/written submission was filed through Legal Advisor/Retainer of the petitioner company on 01.10.2011 copy whereof has been enclosed as Annexure-4. The said written submission/show cause was not considered by the respondent authority and the impugned order as contained in Annexure-1 was passed. The impugned order records that no reply/written submission was filed.

I have heard the parties. Both of them have agreed for disposal of the matter at this stage considering the pleadings on record.

Since the petitioner has already filed show cause/written submission which has not been taken into consideration by the competent/appropriate authority while passing the impugned order (Annexure-1), this Court is satisfied that the application merits to be disposed of by the following order:-

The order dated 27th October, 2011 (Annexure-1) as well as the consequential order dated 31st October, 2011 (Annexure-1/1) are quashed and the matter is remitted back to the competent/appropriate authority for passing a fresh order in accordance with law after taking into consideration the show cause/written submission filed by the petitioner. Petitioner is also granted liberty to file a copy of Annexure-

4 before the said respondent within three weeks from today enabling the competent/appropriate authority to pass order afresh in accordance with law.

Counsel for the petitioner has drawn attention of the Court to the order dated 2.1.2012 to submit that the penalty amount in the sum of Rs. 5,000/- has been deposited on 14.2.2012 subject to result of the case. If that be so, then such deposit shall also abide by the final order the respondent will pass afresh in the light of the present order.

Pankaj/-

(Kishore Kumar Mandal, J)

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