

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No. 6246 of 2014

1. Billu @ Banshilal Sahu, S/o. Shri Lakhan Lal Sahu, aged about 30 years, R/o. Sakri, Bilaspur (C.G.), Civil and Revenue District – Bilaspur.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : the Secretary, Department of Public Works, Mahanadi Bhawan, Mantralaya, Naya Raipur.
2. Executive Engineer (Bha.Sa), Public Works Department, Division No.1, Bilaspur.
3. Sub Divisional Officer, (Bha./Sa.), Public Works Department, Division No.1, Bilaspur.
4. Assistant Labour Commissioner, Naya Composite Building, Collectorate Campus, Bilaspur.

---- Respondents

For Petitioner	: Mr. Devesh Chandra Verma, Advocate
For Respondent/State	: Mr. Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05/08/2016

1. Heard.
2. With the consent of the learned counsel appearing for the parties, the petition is heard finally.

3. The instant petition is against the order dated 27.09.2014 (Annexure P/5, passed by the Assistant Labour Commissioner, whereby the prayer to make reference was dismissed.
4. Learned counsel for the petitioner would submit that the order dated 27.09.2014 would show that it is a non-speaking and cryptic order and no reasons have been assigned. The counsel placed his reliance in the case law reported in (2009) 11 SCC 609 and would submit that under the circumstances, any reference can not be refused by non-speaking order, since it takes away the valuable right of the petitioner, which has been terminated.
5. Learned State counsel submits that the order dated 27.09.2014 is correct and is well merited, which do not call for any interference.
6. I have heard the learned counsel appearing on behalf of the parties.
7. Perused the order dated 27.09.2014 as also considered the argument and rival submissions of the parties. By such order the reference has been refused only on the ground that certain information was sought for, which was provided by the petitioner on date, as such at the threshold without any speaking order, the prayer to make reference was dismissed.
8. The Hon'ble Supreme Court in the case law reported in **(2009) 11 SCC 609, Sarva Shramik Sangh Vs. Indian Oil Corporation Limited and Others** has laid down the following parameters, which are quoted as under :-

“37. Thus it can safely be concluded that a writ of mandamus would be issued to the appropriate

Government to reconsider the refusal to make a reference, where (i) the refusal is on irrelevant, irrational or extraneous grounds; (ii) the refusal is a result of the appropriate Government examining the merits of the dispute and prejudging/adjudicating/determining the dispute; (iii) the refusal is mala fide or dishonest or actuated by malice; (iv) the refusal ignores the material available in the Failure Report of the Conciliation Officer or is not supported by any reason.”

9. By application of aforesaid principle in the said order, it does not fit within the frame work laid down by the Hon'ble Supreme Court. In a result the order impugned dated 27.09.2014 (Annexure P/5) being non-speaking and no cogent reason has been assigned to dismiss the same, therefore, the same is set-aside.
10. The matter is referred back to the concerned Labour Commissioner to consider the issue raised by the petitioner on merits within a further period of six months from the date of receipt of this order.
11. With the aforesaid observation, the petition stands finally disposed off.
No order as to costs.

Sd/-
(Goutam Bhaduri)
Judge