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HIGH COURT OF CHHATTISGARH, BILASPUR**CONT CASE (C) No. 185 of 2016**

Ram Ajjaiyya S/o Shri Chinaiyya, Aged About 40 Years R/o Block No. 1/A, Street No. 60, Sector- 6, Bhilai, District- Durg (Chhattisgarh).

---- Petitioner

Versus

Smt. S. Sarkar Principal, B. S. P. Senior, Secondary School, Sector- 4, Bhilai, District- Durg (Chhattisgarh).

---- Respondent

CONT CASE (C) No. 190 Of 2016

Kavita Chourey W/o Rahul Chourey, Aged About 44 Years R/o Buddha Bihar, Sector-06, Street No.1, Bhilai, District Durg, Chhattisgarh

---- Petitioner

Vs

S. K. Bahadur , Principal B.S.P. High School No.2, Sector-6, Bhilai, District Durg, Chhattisgarh.

---- Respondent

CONT CASE (C) No. 187 Of 2016

1. Ahilya Bai W/o Teluchand, Aged About 40 Years R/o Block No. L, C-1, F, Labour Camp, Bhilai, District Durg, Chhattisgarh
2. N. Kondaiya S/o N. Polaiyya, Aged About 42 Years R/o Block No. 2/F, Cross Street No. 11, Sector 6, Bhilai, District Durg, Chhattisgarh.

---- Petitioners

Vs

P. S. Dudhe, Principal B.S.P. High School, Sector-8, Bhilai, District Durg, Chhattisgarh.

---- Respondent

CONT CASE (C) No. 186 Of 2016

Kartik Ram S/o Ganpat Lal, Aged About 50 Years R/o Nehru Chowk, Camp- 1, Near Sinha Cycle Store, Bhilai, District- Durg (Chhattisgarh)

---- Petitioner

Vs

Smt. Rekha Sharma Principal B. S. P. High School, Camp- 1, Bhilai, District-Durg (Chhattisgarh).

---- Respondent

CONT CASE (C) No. 189 Of 2016

P. Chintami W/o Akaiya, Aged About 44 Years R/o Block No. 3 F, Street No. 59, Sector-6, Bhiali, District Durg, Chhattisgarh.

---- Petitioner

Vs

Smt. B. Joseph , Principal B.S.P. Angal Madhya Mandal School, Sector-7, Bhilai Nagar, District Durg, Chhattisgarh.

---- Respondent

CONT CASE(C) No. 188 Of 2016

B. Polamma W/o B. Ramallu, Aged About 42 Years R/o Block No. 1 C, 1-F, Labour Camp Bhiali, Tahsil And District Durg, Chhattisgarh.

---- Petitioner

Vs

Chandrika Prasad , Principal B.S.P. Senior Secondary School, Sector-10, Bhilai, Nagar, District Durg, Chhattisgarh.

---- Respondent

CONT CASE (C) No. 191 Of 2016

1. Budhram S/o Late Chhotu Ram, Aged About 60 Years R/o Sanjay Nagar, Kumharpara, Supela, Bhilai, District Durg, Chhattisgarh
2. Nona Bai W/o Budhram, Aged About 55 Years R/o Sanjay Nagar, Kumharpara, Supela, Bhilai, District Durg, Chhattisgarh

---- Petitioners

Vs

P. R. Parkhe, Principal B.S.P. High School, Bhilai Vidyalaya, Sector-2, Bhilai, District Durg, Chhattisgarh.

---- Respondent

For Petitioners : Shri HB Agrawal, Sr. Advocate alongwith Ms. Nandkumari Kashyap, Advocate.

For Respondent : Dr. NK Shukla, Sr. Advocate along with Shri
Shailendra Shukla, Advocate.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board

Per, Deepak Gupta, CJ.

21/07/2016

1. All these contempt proceedings are being disposed of by this common order as issues involved are the same.
2. The claimants claimed that they are engaged in different schools which are being run by the Steel Authority of India (for short, SAIL) and the Bhilai Steel Plant (for short, BSP). It was alleged that their services were terminated in violation of the provisions of the Industrial Disputes Act and accordingly industrial disputes were raised. Before the Labour Court, the stand of the SAIL and BSP was that these workers were employees of the Parent Teachers Association of the Schools and not the employee of the SAIL or BSP. It was also alleged that these Sweepers were not the regular employees, but were part time employees. The reference was made by the State to the Labour Court and the Labour Court gave a finding that the petitioners were Sweepers engaged in the schools and that their services have been illegally terminated.
3. The Labour Court passed an award in favour of the petitioners holding that they were employees of the SAIL and BSP and directed that they be re-instated on the post of Sweepers and they should get 50 percent back-wages.
4. Writ Petitions were filed by the petitioners which were disposed of by judgment dated 14.07.2015 delivered by learned Single Judge of this court. Learned Single Judge, in para 12 of its judgment observed as follows:

“12. Thus, a close scrutiny of the material available on record would indicate that the workmen were not engaged by the management

of the BSP. There is no material to indicate that the Principal or PTA was otherwise entitled to make appointment on behalf of management of the SAIL. In the first statement, the workmen have stated that the Principal has engaged them for cleaning work of the school. The constitution, objectives and functions of the PTA would also indicate that the BSP constituted PTA for maintaining upkeep of the school and in that connection, the PTA engaged workmen for cleaning the school premises, urinals, toilets and providing water. Moreover, in the first award, the Labour Court directed the PTA to reinstate the workmen. There was no award against the SAIL or BSP. The workmen never approached this Court by preferring a writ petition raising contention that they should have been treated as workmen engaged by the SAIL/BSP and the award should also have been directed against the said management to reinstate them. Thus, the Labour Court has committed serious illegality in passing the impugned award against the management of the SAIL/BSP.”

5. Therefore, the learned Single Judge held that the Sweepers were not employees of the SAIL or BSP but they were employees of the Parent Teachers Association. The learned Single Judge also made reference to the fact that in the first award the Labour Court directed the Parent Teachers Association to reinstate the workmen and there was no award against the SAIL or BSP. The learned Single Judge disposed of the petitions in the following terms:

“18. In the result, all the writ petitions are thus allowed in part in the following terms:-

WP(L) Nos.35/2012, 40/2012, 41/2012, 42/2012, 46/2012, 47/2012, 48/2012, 49/2012, 50/2012, preferred by the PTA and 2 others are allowed in part.

The award insofar as it is directed against the management of SAIL/BSP is set aside. However, it will remain operative against the other petitioners.

WP(L) Nos.197/2012, 198/2012, 163/2012, 41/2013, 44/2013, 42/2013, 43/2013, 45/2013 filed by Shri Pankaj Gautam and Shri D.P. Satpathy are allowed only in favour of petitioner Nos.1 and 2. Sanction to prosecute them is quashed. Prayer made by petitioner No.3 in these writ petitions is rejected. Proceeding against them may continue, however, it shall remain in abeyance for a period of 3 months affording time to the said petitioners to comply with the award, failing which proceeding shall continue thereafter.”

6. The second direction issued by the learned Single Judge clearly states that

award against the management of SAIL/BSP is set aside.

7. We have perused the memo of parties to the writ petitions and we find that the petitioners other than the management of SAIL/BSP were the Secretary-cum-Principal of the Parent Teachers Association in most of the cases. Therefore, that award is still binding on the Parent Teachers Association and the Secretary-cum-Principal of the Parent Teachers Association.
8. The workmen, aggrieved by this judgment of learned Single Judge filed Writ Appeals before this court. The first appeal was disposed of by the Division Bench of this court vide common judgment dated 05.08.2015. In these writ appeals also the appellants/workmen raised a plea that they were employee of SAIL/BSP. The contention was rejected as is apparent from paragraphs-4 of the judgment, which reads as follows:

“4.The Appellants, according to the award and the Learned Single Judge were appointed by the Principal through Parent-Teachers Association. The reference was against the Principal.

Therefore, the findings given by the Division Bench also is that they were appointed by the Principal through Parent Teachers Association.

9. Thereafter, in paragraphs 5 & 6 of the said judgment, it has been stated as follows:

“5. Learned Senior Counsel, Dr. N.K. Shukla appearing for Respondent No.3 submitted that in compliance of the award, an affidavit had already been filed before the Learned Single Judge on 7.10.2014 that the Appellants had been directed by the respective Principals to resume duties in view of the order of reinstatement by the Tribunal but none of them have joined so far.

6. In view of the aforesaid affidavit, nothing survives for adjudication in the appeals and the appeals are disposed in terms of affidavit dated 7.10.2014 filed by the Principals of the respective schools in question.”

10. It appears that in second batch of writ appeals in which another dispute arose that the petitioners despite the orders of the Single Judge were not permitted to

join. Herein, the Division Bench of this court in Writ Appeal No.445 of 2015 (and other connected matters) on 03.11.2015 passed the following orders:

“5. The Appellants are stated to be sweepers, class IV employees. Once the Principals have accepted the award and made a statement before the Court to accept the joining in compliance of the award of the Labour Court, in order to resolve the entire controversy with regard to contentions and counter contentions, as noticed above we direct as follows:

1. The Appellants shall report to the Principals of their respective schools for joining on 1.12.2015 at 11:00 am.
2. The Assistant Labour Commissioner (State), Durg is directed to be present himself at any one of the seven schools on the aforesaid date and time to supervise the joining of the respective Appellants and acceptance of their joining.
3. The Assistant Labour Commissioner (State) shall likewise depute six other officers from his office who shall likewise report on the aforesaid date and time at the other respective schools as assigned by him and who will likewise ensure the acceptance and joining of the respective Appellants.
4. The Assistant Labour Commissioner (State) shall then file an affidavit before this Court reporting compliance of our directions.
5. If any impediment is created in the joining by any, in any manner, the Assistant Labour Commissioner (State) shall mention it in detail in his affidavit to be filed before us.

6. The writ appeals are disposed with the aforesaid directions.”

11. It is again urged before us on behalf of the petitioners that these workmen are the employees of the management of the school. We can not in contempt proceedings re-open what has been decided in the writ petitions. The appellate court did not set aside the order passed by the learned Single Judge, and therefore, the workmen will have to be treated as employees appointed by the Principal through the Parent Teachers Association. This means that the Principal is responsible to pay the amount.
12. It is urged by the respondents that now some of the workmen are not joining. On the other hand, we find from the order dated 03.11.2015 passed by the Division Bench that the workmen were willing to join, and therefore, the Division

Bench had to pass a detailed order directing that Labour Commissioner should be present when the workmen present themselves for joining. It is urged on behalf of the respondents-BSP/SAIL that the workmen only worked for one month and thereafter they did not work. In this regard, it is urged by the petitioners that the workmen were not paid 50 percent of back-wages as per the award, secondly the workmen were paid only Rs.650/- per month and lastly it is urged that the workmen were not allowed to continue after one month.

13. We are not going to the third disputed question, but two facts are clear that the workmen have not been paid 50 percent of back-wages and second that they are still being paid only Rs.650/- per month. This is totally contempt of the orders passed by this court. Merely because the workmen were getting Rs. 650/- per month at that time when their services were terminated does not amount that today also they will get Rs.650/- per month. The respondents are duty bound to give them the minimum wages for the Sweepers as fixed by the State of Chhattisgarh. The respondents-Parent Teachers Association and the Principals are duty bound to also pay the 50 percent back-wages as already directed.

14. We, therefore, direct as follows:

- The Assistant Labour Commissioner shall visit the School on 1st August, 2016 and all the petitioners shall appear before him and if they wish to join, they shall be permitted to join the duties.
- They shall be paid their entire 50 percent back-wages by the Principal and the Parent Teachers Association on or before 30.09.2016.
- The Principal and the Parent Teachers Association shall also ensure that the minimum wages as per the law are paid to all the petitioners with effect from 01.12.2015 till they continue in service.

- We further direct that the respondents have already been found guilty of contempt and if these directions are not complied with, we will presume that the respondents do not want to purge themselves of the contempt.
- The matters be listed before us on 19.10.2016 on which date the Principal of the respective school shall remain present in person, in case, the order of the court is not complied with.
- We make it clear that if the order of this court is not complied with, we will not hesitate to pass strict orders against the officials who violates the order.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P.Sam Koshy)
JUDGE