

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.7983 of 2003

ORDER :

This writ petition is filed contending that orders in I.A.No.19 of 2002 in M.P.No.80 of 2000 on the file of Labour

Court-II, Hyderabad, is illegal, arbitrary and to direct 2nd respondent-Municipality to produce the documents.

2. Petitioner herein filed M.P.No.80 of 2000 before Industrial Tribunal for payment of overtime wages for working on

Sundays and Public Holidays as per Section 33(C)(2) of the Industrial Disputes Act and when the said M.P. was at the stage of enquiry, petitioner filed I.A.No.19 of 2002 to summon Muster Rolls, Attendance Registers, Duty Charts and Compensatory Leave Register from the office of 2nd respondent herein and that application was dismissed on 19.02.2003 holding that Municipality is not a factory within the meaning of Factories Act, therefore, the Labour Court is not competent to deal with the case attracting provisions of Factories Act.

3. It is the contention of petitioner that Labour Court has got jurisdiction and the finding with regard to the jurisdiction is contrary to settled law. Advocate for petitioner submitted that this Court in **Rajendernagar**

Municipality v. Perraju^[1] by relying on the judgment of

the Hon'ble Supreme Court clearly held that the Municipality would also fall within the definition of Industry and thereby dispute attracts the Industrial Disputes Act and the said judgment of this Court is confirmed by a Division Bench of this Court in W.A.No.793 of 1995 dated 25.04.1997, therefore, the findings of the Labour Court are incorrect.

4. I have perused the material papers and also the above decision relied on by advocate for petitioner and orders in Writ Appeal.

5. From the above decision, which is confirmed by a Division Bench, it is clear that jurisdiction of Labour Court under Section 33(C)(2) of the Industrial Disputes Act cannot be ousted in view of the fact that Municipality would also fall within the definition of Industry. It is held in that decision that Labour Court is vested with power to enquire and to find out the bonafide claim under the provisions of Industrial Disputes Act. In view of above referred decision and the findings of Division Bench in W.A.No.793 of 1995, the findings of Labour Court with regard to jurisdiction is absolutely incorrect and it is an illegal order, which is liable to be set aside.

6. For these reasons, writ petition is allowed by setting aside the finding of Labour Court in I.A.No.19 of 2002 in M.P.No.80 of 2000 with regard to the jurisdiction and the Labour Court is directed to restore the said I.A. and dispose of it on merits, as expeditiously as possible.

7. Miscellaneous petitions pending, if any, shall stand

closed. No costs.

7th January 2016.

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S. RAVI KUMAR, J

[\[1\]](#) 1995 (2) ALT 320