

205.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.5737 of 2011 (O&M)

Date of decision:21.01.2016

Shri Shiv Nath son of Shri Babu Ram

... Petitioner

versus

Shamgarh Cooperative Credit & Service Society Limited
Shamgarh, Tehsil and District Karnal.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?v

K.Kannan, J. (Oral)

1. On a reference made against an order of termination, the Labour Court has framed an issue of whether the enquiry conducted was unbiased and has taken a view that he did not suffer from any bias or the enquiry was not in any way vitiated in the manner contended by the workman. The counsel for the workman pleads that this issue of whether the enquiry was fair or not ought to be an issue that has to be considered along with other materials and could

not be brought up in isolation which can defeat the very reference and influence the ultimate decision that the Labour Court takes. The counsel for the respondent states that the order of termination was passed by the Cooperative Society and the reference itself was bad and the Labour Court did not have competency to hear and pass orders. If the respondent is interested in contending that the Labour Court had no jurisdiction to entertain the case, the said objection may be taken before the Labour Court and it ought not to be permitted to invite a finding from the Labour Court that the enquiry conducted was proper. The respondent cannot have both ways to support the order of the Labour Court that the enquiry was fair and to contend at the same time the Labour Court has no competency to pass order. I cannot allow for such inconsistent contention to be brought before this court.

2. I set aside the order and remit the matter to the court below for disposal on all matters at issue comprehensively. The court will examine the issue of jurisdiction also at the time when it delivers the judgment and will allow for both parties to contend for the respective contentions, namely, by the workman that the reference is competent and that the proceeding before the Enquiry Officer was vitiated in any way and for the respondent to contend quite contrary to what is contended by the workman. The order is passed without going into the issue of whether the Labour Court's

observation regarding the validity of the enquiry on its merits only because such a preliminary adjudication is bound to colour the perception in the ultimate dispensation and it will make meaningless the reference itself. The Labour Court ought not to have pre-judged the issue of fairness in enquiry in isolation, especially when the parties have offered their evidence in full on all matters which are the subject of reference.

3. The impugned order is set aside and the matter is remitted to the Labour Court for disposal in accordance with law and in the light of observations made above.

4. Revision petition is allowed.

5. Parties to appear before the Labour Court, Panipat on 15.02.2016.

(K.KANNAN)
JUDGE

21.01.2016
sanjeev