

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4392 of 2016

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1. Kalawati Devi wife of Kanchan Sah,
 2. Kanchan Sah, Son of Late Chokat Sah,
Both residents of village - Basopatti, P.O. - Purana, P.S. - Sanichari, District - West Champaran.

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Labour Department, State of Bihar, Patna
2. The Principal Secretary, Labour Department, Bihar, Patna.
3. The Assistant Labour Commissioner - cum - Appellate Authority, Tirhut Division, Muzaffarpur.
4. The Labour Superintendent and Agriculture Labour-cum - Authority, Bettiah, West Champaran.
5. The Labour Enforcement Officer, Bettiah, West Champaran.
6. Madhu Pandey,
7. Braj Bhushan Pandey @ Nanki
Both sons of Late Indrasan Pandey, Residents of village - Dularpatti, P.O. - Parsa Kothi, P.S. - Sanichari, District - West Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh, Advocate
Mr. Sandeep Kumar, Advocate
Mr. Mukesh Kumar, Advocate
For the State : Mr. Birju Prasad, GP-13
Mr. Amresh, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 07-04-2017

This writ application has been filed by the petitioners for quashing the order dated 23.11.2015 passed by respondent no. 3 the Assistant Labour Commissioner, Tirhut Division, Muzaffarpur in Appeal No. 3 of 2015 as contained in Annexure- 3 whereby the respondent no. 3 has set aside the order dated 20.06.2015 passed by respondent no. 4, the Labour Superintendent Agriculture-cum-



Authority, Bettiah, West-Champaran in M.W. Case No. 06 of 2013 and directed the respondent nos. 6 and 7 to pay an amount worth Rs.1,44,000/- outstanding wages to the petitioners against for the period 25.02.2013 to 25.08.2013.

2. The petitioners have further prayed to issue a direction to respondent nos. 6 and 7 to pay the dues amount stated above against the wages for the period 25.02.2013 to 25.08.2013 to them.

3. The petitioners claimed that they were employed by respondent nos. 6 and 7 in their field at the rate of Rs.150/- per day as wages. On these terms and conditions, the petitioners worked in the field of respondent nos. 6 and 7 between the period 25.02.2013 to 25.08.2013. They claimed that respondent nos. 6 and 7 paid Rs.50/- per day only and retained Rs.100/- of the remuneration with themselves. Since due amount of remaining wages was not paid by respondent nos. 6 and 7, the petitioners filed a complaint under Section 20(2) of Minimum Wages Act which was registered as M. W. Case No. 06 of 2013.

4. Respondent no. 4 after looking into the evidence produced by the petitioners and respondent nos. 6 and 7 passed order dated 20.06.2015 whereby respondent nos. 6 and 7 were directed to pay Rs.1,44,000/- to the petitioners within 30 days by producing themselves before the court of respondent no. 4.



5. Being aggrieved by the order dated 20.06.2015 passed by respondent no. 4, respondent nos. 6 and 7 preferred an appeal vide Appeal No. 3 of 2015 before respondent no. 3 alleging therein that the petitioners had filed the case under the Minimum Wages Act only in retaliation as they had already filed a complaint before the *Sarpanch* on 23.08.2013 as the goat of the petitioners had destroyed the crops standing in their field by grazing the same. The Appellate Authority considered the evidence led by the parties afresh and finding force in the submission of the employer respondents allowed the appeal vide order dated 23.11.2015 which is under challenge in the present writ application.

6. Learned counsel for the petitioners submitted that the order passed by the Appellate Authority is vitiated in law as the evidences brought on record have not been appreciated properly.

7. Referring to the counter-affidavit filed on behalf of respondent nos. 1 to 5, it is submitted by the learned counsel for the State that on appreciation of evidence, the Appellate Authority came to the conclusion that the claim of the petitioners was an outcome of the case filed before the *Sarpanch*. He submitted that the Appellate Authority has rightly set aside the order passed by the respondent no. 4 which was based only on oral evidence of interested and partisan witnesses.



8. I have heard learned counsel for the parties and perused the record.

9. The entire claim of the petitioners was based on their oral statement that they had worked for six months in the field of respondent nos. 6 and 7 whereas respondent nos. 6 and 7 have produced documentary evidence to show that prior to lodging of the complaint by the petitioners they had instituted a complaint before the *Sarpanch* of the Panchayat against the petitioners alleging that their goat had destroyed the standing crop in their field.

10. In that view of the matter, if the Appellate Authority formed an opinion that the institution of the case under Minimum Wages Act was an outcome of an afterthought in retaliation and self-defence, I find no illegality with the order. Accordingly, the writ application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2017
Transmission Date	NA

