

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 5 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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Sri Tathagata Chakraborty, Enforcement Officer, Employees' Provident Fund Organization, Bihar, Regional Office – Bhavishyanidhi Bhawan, 'R' Block, Road No. 6, Patna-800001

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Home Department, Bihar, Patna
2. M/s. Priyanshu Infrastructures, A-203, Raj Kishori Complex, c/o Prof. B.B. Sinha, Near Raj Laxmi Nursing Home, Kankarbagh, Patna-800020
3. Sri Gopal Kumar Singh, Person-in-charge of M/s. Priyanshu Infrastructures, A-203, Raj Kishori Complex, c/o Prof. B.B. Sinha, Near Raj Laxmi Nursing Home, Kankarbagh, Patna-800020

.... Respondents

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Appearance :

For the Petitioner : Mr. Madhav Krishna, Advocate

For the Res. No. 1 : Mr. Suman Kumar Jha, S.C. 2 to AAG-3

For the Res. No. 2 & 3: Mr. R.K. Agrawal, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 09-10-2017

Heard learned counsels for the parties.

2. The petitioner is complainant of Complaint Case No. 101 (C-2) of 2012 filed in the court of learned Chief Judicial Magistrate, Patna against respondent no. 2 and 3 for offences under Section 14(2) of the Employees Provident Fund Act.

3. The complaint case was placed before the Lok Adalat and by Award dated 12.12.2015 the criminal case was disposed off.

4. The petitioner has challenged the Award dated 12.12.2015 on the ground that since the Award is to be prepared with the consent of the parties and petitioner is not a signatory on the Award. Hence, the Award is void, ab initio in view of the requirement of Section 20 of the



Legal Services Authorities Act, 1987. His further contention is that even the matter to the Lok Adalat should have been referred only after hearing the parties.

5. The lower court records of the complaint case would reveal that the parties were not heard on the reference.

6. Learned counsel for respondent no. 2 and 3 submits that in fact the Award was arrived at with consent of the parties. However, due to rush and heavy business at the Lok Adalat, the Award could not be signed by the complainant.

7. Whatever may be the factual position, the legal position is clear that the matter was referred to the Lok Adalat without giving opportunity of hearing to the parties and the Award is not signed by one of the parties i.e. the complainant of the case. Therefore, the same is bad in law for not being in conformity with the requirement of Section 20 of the Legal Services Authorities Act, 1987 which is being reproduced below:-

“Section 20. Cognizance of cases by Lok Adalats.- (1)Where in any case referred to in clause (i) of sub-section (5) of section 19,-

(i)(a) the parties thereof agree; or

(b) one of the parties thereof makes an application to the Court, for referring the case to the Lok Adalat for settlement and if such Court is prima facie satisfied that there are chances of such settlement; or

(ii) the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the Court shall refer the case to the Lok Adalat:



Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such Court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organizing the Lok Adalat under sub-section (1) of Section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:

Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the Court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a Court.

(7) Where the record of the case is returned under sub-section (5) to the Court, such Court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1)]. ”



8. Accordingly, the impugned Award stands set aside and the matter is remitted back to the court where the aforesaid complaint case is pending for proceeding according to law.
9. With the aforesaid observation, this writ application stands disposed off.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	11.10.2017
Transmission Date	11.10.2017

