

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2605 of 2017

- D. P. Sharaf (Petitioner In Person) S/o Late Shri K. A. Sharaf, Aged About 59 Years Mukhya Bhandarpal Rajgamar, R/o Quarter No. E/22, 15 Block S. E. C. L. Colony Korba, Tahsil & District Korba (Chhattisgarh)

---- Petitioner

Versus

- Coal India Limited Marfat Chairman, Premises No. 04, Mar, Plot No. A F- III, Action Area- 1 A New Town, Rajarhat Kolkata, (West Bengal) 700156

---- Respondent

Shri D.P.Sharaf, Petitioner in person.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/06/2017

1. Heard on admission.
2. The grievance raised by the petitioner in person in this petition is the issuance of strike notice by some Trade Unions, as is reflected from Annexure P/4 to the writ petition. The said strike call has been given to implement the six demands of coal workers, which is also enclosed along with Annexure P/4.
3. Ground for challenge of the petitioner is that none of the Trade Unions, who have issued the strike notice, are registered bodies, and therefore, unless the said Trade Unions are registered bodies, they cannot initiate call for strike in the respondent Company. It is further contended that the strike notice is not in accordance with the prescribed format as is required under the provisions of the Industrial Disputes Act, 1947. According to the petitioner, since the issuance of strike notice is not in accordance with prescribed format, therefore, prima facie, the same is bad and is liable to struck

down. Referring to Annexures P/1 & P/2, he further submits that for couple of demands, the Union of India has already made a reference to the Industrial Tribunal and the matter since is already seized before the Industrial Tribunal, the notice of strike on those demands is bad in law. The petitioner prays for issuance of writ to the respondent Coal India Limited for holding that the strike notice is bad in law. The petitioner relies on judgments by the Hon'ble Supreme Court rendered in the case of ***Ramnagar Cane and Sugar Co. Ltd. vs. Jatin Chakraborty and others***, AIR 1960 SC 102, ***National Organisation of Bank Workers' Federation of Trade Unions v. Union of India & ors.*** 1993 SCC Online Bom.495, ***State Bank of Indian Staff Association & anr. v. State of Bank of Indian and Others***, AIR 1996 SC 1685, ***Food Corporation of India Staff Union v. Food Corporation of India and Ors.***, AIR 1995 SC 1344, ***Deoraj vs. State of Maharashtra & ors.***, AIR 2004 SC 1975, ***Management, Essorpe Mills Ltd. v. Presiding Officer, Labour Court and ors.***, AIR 2008 SC 2504 and ***Union of India and another vs. S.B. Vohra and others***, 2004(2) SCCD 765.

4. Prima facie, this Court is not inclined to entertain the petition. From perusal of the contents of the writ petition as also after hearing the submissions of the petitioner, this Court is of the opinion that the relief, which has been sought for by the petitioner, cannot be entertained by the writ Court in exercise of its jurisdiction under Section 226 of the Constitution of India. The request for declaring the strike to be illegal or for calling the strike to be bad in law has to be done by the appropriate Labour Court, as prescribed under the Industrial Disputes Act. Even if there is violation of provisions of

Industrial Disputes Act or Trade Unions Act, it would be the appropriate Court under the two Acts, which could have been competent in seizing the dispute raised by the petitioner herein .

5. It is settled position of law that this Court in exercise of writ jurisdiction would not conduct a roving enquiry to reach to a conclusion whether the notice of strike is legal, proper or justified. For deciding the same, evidences would have to be collected and adduced before the Court, which is not permissible before the High Court. It is for the Industrial Tribunal to decide such issues whether the strike notice issued by the Trade Unions is proper or justified or in the proper format as prescribed under the statute.
6. The facts and circumstances of the cases, which have been relied upon by the petitioner are matters where most of the cases are routed through the Labour Court. The ratio of law laid down in those cases cannot be made applicable in the case of the petitioner in a straight jacket formula.
7. The present writ petition, thus being totally devoid of merit, deserves to be and is accordingly rejected.

Sd/-

(P. Sam Koshy)
V. Judge