

In the High Court of Punjab and Haryana at Chandigarh

211

CR No. 3238 of 2013

Date of decision: 2.11.2017

Nestle India Ltd.

.....petitioner

Versus

Presiding Officer Industrial Tribunal & anr

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.M.L.Sarin, Sr. Advocate with
Mr.Amaninder Preet Singh, Advocate,
for the petitioner.

Mr.V.K.Shukla, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J (oral)

Petitioner has assailed the order dated 13.3.2013 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Bathinda, whereby application on behalf of the petitioner for issuance of summons to the contractors was dismissed.

Claim of 566 claimants was referred to the Court for adjudication by reference. The reference was to the following effect:-

“Whether the workmen named in demand notice dated 29.4.2010 (copy attached) Shri Sukhminder Singh and 565 others who are working for the last so many years in the factory of M/s Nestle India Ltd. Moga through contractors are entitled to

regularization ? If yes, with what details ?”

During pendency of the reference, the petitioner filed an application for furnishing better particulars of all the contractors, who had employed the claimants. The said application was allowed by the Tribunal and necessary information was furnished to the Court. Thereafter, the present application came to be filed for issuance of summons to the contractors and the same has been dismissed vide the impugned order.

Learned counsel for respondent No.2 submitted that the claimants have not claimed any relief against the contractors, therefore, the claimants being *dominus litis*, cannot be forced to contest against the persons with whom they do not want to contest. Though, learned counsel for the respondent has admitted that the employees were employed by the contractors, but they are claiming relief only against the petitioner-company.

In view of information furnished by the employees in pursuance of application dated 14.2.2011 (Annexure P-4), I am of the considered opinion that the lis cannot be appropriately decided in the absence of the contractors, to whom process is sought to be issued by the petitioner. In the event of summoning the contractors, the dispute can be effectively adjudicated by the Tribunal after taking necessary evidence in accordance with law.

The nature of contract of appointment, whether *sham* or otherwise, would also be gone into by the Tribunal in the presence of all the necessary parties. The absence of application with exact nomenclature would not come in the way to visualize the real import behind the intended action of the petitioner to project the relationship between the concerned parties for the lis to be decided on merits. Even if the application has not been preferred under Order 1 Rule 10 CPC, summoning of the contractors would suffice to serve the purpose for impleading the parties by way of moulding the relief .

I am of the considered opinion that the presence of the contractors would facilitate the Tribunal to adjudicate the controversy in a just and appropriate manner. While exercising the powers under Article 227 of the Constitution of India, I deem it appropriate to implead the contractors as disclosed by the employees in the list Annexure P-5. Normal consequences to follow in pursuance of this order.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

November 02, 2017

anita

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No