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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 662/2016 & CM APPL. 44162/2016

NATIONAL INSTITUTE OF PUBLIC CORPORATION AND
CHILD DEVELOPMENT Appellant

Through Mr. Sanjiv Joshi, Advocate with
Ms. Meenakshi, Advocate

versus

UNION OF INDIA & ORS Respondents

Through Mr. Nawal Kishore Jha, Advocate
with Mr. Alok, Advocate for R-1/UOI

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K. GAUBA

ORDER

% **26.09.2017**

The appellant challenges order of the learned Single Judge dated 03.11.2016 by which the learned Single Judge refused to consider whether the reference made to the Industrial Tribunal was, in the circumstances of the case, justified.

The learned Single Judge had referred the dispute raised on behalf of respondent no.4/workman who had contended that the real employer was the appellant. The appellant has disputed this and stated that the respondent no.3/contractor, in fact, was the real employer and that the learned Single Judge on the basis of the judgment of the Supreme Court in *National Engineering Industries Ltd. v. State of Rajasthan AIR 2000 SC 469* refused to entertain the writ petition.

This Court is of the opinion that the conclusion of the learned Single Judge cannot be faulted; as to whether the employment in truth and reality was between the respondent no.4/workman and the respondent no.3/contractor is essentially a factual issue that would be first addressed based upon which the findings as to whether the real employer was the appellant would be rendered.

In these circumstances, the appeal, in the opinion of the Court, is without merits. All rights and contentions of the parties are however reserved.

The appeal is dismissed.

S. RAVINDRA BHAT, J

R.K. GAUBA, J

SEPTEMBER 26, 2017

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