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

+ **W.P.(C) 8079/2017 & CM No. 33246/2017**

RAKESH KUMAR AND ORS.

..... Petitioners

Through: Mr. Mahesh Srivastava with Mr.
Vaibhav Manu Srivastava, Advocates

versus

GOVT. OF NCT. AND ANR.

..... Respondents

Through: Ms. Manika Tripathy Pandey with
Mr. Ashutosh Kaushik, Advocate
For R-1
Mr. Manish Malhotra, Advocate
R-2

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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12.12.2017

The petitioner has filed the present writ petition challenging the action of the respondent no.1 in not exercising its power vested under Article 25 FFA of Industrial Disputes Act, 1947.

It is submitted by the learned counsel for the petitioner that the petitioners are working with the respondent no. 2 for long time and some of the petitioners had been working for more than 20 years with the respondent no.2. The respondent no. 2 closed its establishment and a demand was raised by the petitioners to pay the compensation on the basis of the revised minimum wages to be paid to the skilled, unskilled, semi-skilled labour in respect of the scheduled employment within the territory of NCT of Delhi with effect from 01.04.2017.

The respondent no.1 had failed to get the compensation to the petitioners on the basis of the minimum wages. Hence, this petition for direction to the respondents.

Learned counsel for the respondent no.2 submitted that so far as the notification to pay the minimum wages with effect from 01.04.2017 is concerned, i.e. the subject matter of adjudication before the Division Bench-I of this Court, where the DB-I had already stayed the notification with effect from 01.04.2017 as well as the coercive action on the basis thereof by the respondent no.1.

Learned counsel for the petitioner admitted the position that the DB-I has already passed the order not to take any coercive action on the basis of the notification dated 31.05.2017. Copy of the order is placed on the record by the learned counsel for the petitioner. The order passed by the DB-I reads as follows :-

“The Registry is directed to make a bunch of these matters. Issue notice to the respondents to show cause as to why rule nisi be not issued.

Mr. Sanjay Ghose, Mr. Devesh Sinsh, Mr. Sumit K. Batra, Mr. Anuj Aggarwal and Mr. Peeyoosh Kalra, Additional Standing Counsels accept notice on behalf of the respondents and pray for time to file counter affidavits. Let the same be filed within six weeks from today. Rejoinders thereto, if any, be filed before the next date.

It is directed that during the pendency of the writ petitions, no coercive steps shall be taken against the members of the petitioners pursuant to the notifications dated 15th September, 2016 and 3rd March, 2017.

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It is made clear that in any case any member wishes to voluntarily abide by the notifications, we have not interdicted the same.

List along with W.P.(C) Nos. 3360/2017, 12088/2016 and 2658/2017 on 11th September, 2017.

Dasti.”

Learned counsel for the petitioner submitted that the matter before the DB-I is reserved for final orders. Learned counsel for the petitioner submitted that a direction may be issued to the respondent no.1 that the petitioner will be paid closure compensation under the Industrial Disputes Act, as per law and subject to orders of DB-I, immediately after the final orders are passed by the DB-I of this Court. The learned counsel for the respondents have no objection for the same.

Learned counsel for the respondent no.2 submitted that they have already disbursed the necessary amount of compensation to the workmen, including 5 petitioners in this petition, as per law, and in case, there is any dispute, petitioners should raise the claim and the dispute under the Industrial Disputes Act, 1947.

In view of the submissions, I am of the opinion that there is an appropriate remedy available to the petitioner for redressal of their grievances under the Industrial Dispute Act, 1947. In view of the submissions of the learned counsel for the parties, respondent no.1 is directed that on moving an application or claim, if any, by the

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petitioners, the respondent no. 1 shall expeditiously dispose of their application/claim subject to judicial orders/judgments, if any, in this regard in accordance with law.

The petitioner submitted that in view of the aforesaid directions, he may be allowed to withdraw the writ petition.

Accordingly, the writ petition is dismissed as withdrawn. Parties are left to bear their own costs.

CHANDER SHEKHAR, J.

DECEMBER 12, 2017/P