

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3178 of 2009

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Jana Biswas, the then Station Director, All India Radio, Bhagalpur (now retired) presently residing at Maya Apartment, 63 Canal Side Road, P.O.-Garia, Kolkatta-700084.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Niranjana Kumar the Labour Enforcement Officer (Central), Patna-II/Incharge of Labor Enforcement Officer (C), Bhagalpur Mourya Lok Complex, A-Block, Room No. 6/16, Patna-800001.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Awanish Kr. Pandey, Advocate
		Mr. Prabhakar Dwivedi, Advocate
For the Union of India	:	Mr. Awadhesh Kumar Pandey, Advocate
		Mr. Ravinder Kumar Sharma, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 06-12-2018

Heard learned counsel for the petitioner; learned A.P.P. for the State and Mr. Awadhesh Kumar Pandey along with Mr. Ravinder Kumar Sharma, learned counsel for the Union of India.

2. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973, for the following relief:

“That this application is being filed for quashing the order of cognizance dated 13.08.2008 in Complaint Case No. P.S. 72 of 2008 corresponding to Tr. No. 2394 of 2008 passed by Chief Judicial Magistrate, Bhagalpur.”



3. The complaint case in which cognizance has been taken is based on the award of the Central Government Industrial Tribunal No. 2, Dhanbad in Case No. 193 of 1998 dated 19.04.2005. As per the direction, the petitioner at the relevant time was required to regularize the services of the persons, who had filed Case No. 193 of 1998. Non compliance of such direction resulted in filing of Complaint Case No. P.S. 72 of 2008/T.R. No. 2394 of 2008. On the same, cognizance has been taken by the Court below on 13.08.2008, which is assailed in the present application.

4. The Court finds the present application to be thoroughly misconceived. It is a result of there being an award by the Labour Court which has not been implemented. The law itself provides that if the award given by the Labour Court is not implemented, the defaulting parties shall be liable to prosecution, which in the present case has been done. Thus, there is no illegality in either maintainability of the complaint or the consequential order taking cognizance. Till the time the main award is un-interfered, the legal consequences are legally valid.

5. In the present case, the Court finds that already a writ petition (W.P.L. No. 588 of 2006) has been filed before the



Jharkhand High Court in which a petition for stay (I.A. No. 356 of 2006) has been filed.

6. In view thereof, the remedy of the petitioner is to proceed with the said writ petition before the Jharkhand High Court and depending on its outcome, the compliant case against the petitioner shall either automatically end or proceed. Moreover, depending on the result of the writ petition, the petitioner would also be free to take appropriate and consequential steps, in accordance with law, before the appropriate forum.

7. Accordingly, the application stands disposed off with the aforesaid observations.

(Ahsanuddin Amanullah, J)

P. Kumar

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