

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6146 of 2017

1. Pragatisheel Vidyut Karmi Sanyukta Sangharsh Morcha, Bihar, Pramila Niwas, West Lohanipur (Near Kathpul), Kadamkuan, Patna- 800003 through its Chairman, Mahesh Prasad Sinha.
2. Bihar Power Worker's Union, Pramila Niwas West Lohanipur (Near Kathpul) Kadamkuan, Patna- 800003 through its General Secretary, Sanjay Kumar Pandey.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Department of Energy, Government of Bihar, Patna.
2. The Principal Secretary, Labour Resource Department, Government of Bihar, Patna.
3. Bihar State Power (Holding) Company Limited through its Chairman-cum-Managing Director, Vidyut Bhawan, Bailey Road, Patna- 800021.
4. South Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan, Bailey Road, Patna- 800021.
5. North Bihar Power Distribution Company Limited through its Managing Director, Vidyut Bhawan, Bailey Road, Patna- 800021.
6. Labour Commissioner-cum-Conciliation Officer, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ramnandan Kr. Sinha, Advocate Mr. Nilesh Kumar Nirala, Advocate
For the State	:	Mr. Rajiv Roy- GP-1 Mr. Suresh Kumar, AC to GP-1
For respondent nos. 3,4,5:		Mr. Vinay Kirti Singh, Sr. Advocate Mr. Vijay Kumar Verma, Advocate Mr. Akhileshwar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 06-12-2018



Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have filed the instant writ petition for a direction upon the respondents (the principal employer) to treat all those workers, who have been engaged through contractor/agencies for perennial nature of work in the Power Distribution Company Ltd. as their own workmen considering their engagement in the light of Contract (Labour and Abolition) Act, 1970.

3. The petitioners have claimed that the members of two unions have been engaged on perennial nature of work through the agencies/contractor and are working since more than three years. The respondent no. 4, vide letter dated 24.06.2013, decided for engaging workmen through the agencies/contractor for the operation and maintenance work. Vide letter dated 19.05.2014, it directed the Electrical Executive Engineer for engaging the workmen through agencies/contractor for the operation and maintenance work in the Power Sub-Station. In this regard, an agreement was executed by the Electrical Executive Engineer with agencies.

4. However, it is contended that respondent no. 4 is taking work from the workmen in clear violation of Sections 7



and 12 of Contract (Labour and Abolition) Act, 1970. The wages of the workmen were not paid as per the Minimum Wages Act. Work is being taken from them in clear violation of law of 'equal pay for equal work'.

5. On the other hand, learned counsel appearing for the respondent State submitted that the petitioners had submitted a representation dated 26.02.2016 before the Labour Resources Department, Bihar stating therein that their grievances had not been looked into and the respondent nos. 4 and 5 had failed to comply the terms of agreement even after submitting several representations. On such representation, a conciliation proceeding was initiated before the Labour Commissioner, Bihar in which members of the workers' union and the management took part on 08.03.2016. However, the conciliation proceeding failed and no settlement could be arrived at between the parties on the workers' charter of demand. He contended that on the failure of conciliation proceeding, in exercise of powers conferred under clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, the Government had finally referred the matter to the Labour Court, Patna, vide notification no. 3109 dated 05.06.2017, for adjudication of the terms of reference.



6. The said contention advanced on behalf of the State has not been controverted by the petitioners.

7. In view of an equally efficacious statutory remedy being available to the petitioners and the same having already been resorted to, I am not inclined to entertain this writ petition under extra-ordinary writ jurisdiction. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J.)

kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2018
Transmission Date	NA

