

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.999 of 2006

General Secretary, Chemical Majdoor Union Rasmada, Distt. Durg
(C.G.) At present Village Khapri, P.O. Kumhari, Distt. Durg (C.G.)
---- Petitioner

Versus

1. Chhattisgarh Distillery (Now Kedia Castle Delleon Industries Ltd.),
Kumhari, Distt. Durg (C.G.)
2. The Industrial Court, Chhattisgarh, Govt. of Chhattisgarh, Raipur
(C.G.)

---- Respondents

For Petitioner:	Mr. Shavik Tiwari, on behalf of Mr. Parag Kotecha, Advocate.
For Respondent No.1:	Mr. Alok Kumar Sinha, Mr. Abhishek Sinha and Mr. Praveen N. Surange, Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/08/2018

1. Mr. Alok Kumar Sinha, learned counsel appearing for respondent No.1
/ Management, would submit that the instant writ petition is not
maintainable, as no such dispute was raised by the petitioner
Association, nor they have any say in the worker's interest and they
are not party to the proceeding either before the Industrial Court or in
the instant reference so made which has been answered by the award
in question. Therefore, the writ petition is not maintainable in view of
the fact that the Association representing the employees in the instant
petition had already filed writ petition questioning the part of award, as
such, this writ petition deserves to be dismissed as not maintainable.
2. Mr. Parag Kotecha, learned counsel appearing for the petitioner
Association would submit that the petitioner in the earlier round of writ
petition had challenged the order of this Court dated 7-7-2005 passed

by the Division Bench of this Court in W.P.No.5064/1999 before the Hon'ble Supreme Court by way of SLP and the Supreme Court entertained the SLP though disposed of the same. Therefore, the petitioner has locus to file the instant writ petition questioning the part of award whereby reinstatement and back-wages have been refused to the members of the petitioner Association.

3. I have heard learned counsel for the parties and went through the record with utmost circumspection.
4. Respondent No.1 has seriously raised a ground that the instant writ petition as framed and filed is not maintainable by the present Association on the ground that grievance has already been raised by the Association – General Secretary, Chhattisgarh Chemical Mill Mazdoor Sangh in W.P.No.4238/2006, as no reference was made at the instance of this petitioner Association, nor the petitioner was party to the impugned award. In the considered opinion of this Court, since the writ petition filed by the contesting employees' Association (W.P. No.4238/2006) has already been considered on merits and decided by this Court in a separate order, the question of maintainability of this petition is kept and left open to be considered in appropriate legal proceeding, if any raised, and as such, it is unnecessary and inappropriate to dwell upon the said issue now, at this stage, in this writ petition. Accordingly, this writ petition is also dismissed, in view of the order passed in W.P.No.4238/2006 (General Secretary, Chhattisgarh Chemical Mill Mazdoor Sangh v. Employer, Chhattisgarh Distillery and another), leaving open the question of maintainability and leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge