

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (L) No. 70 of 2018**

Dr. Mahendra Prasad Samal S/o late Shri Guru Prasad Samal, age about 47 years, R/o A-103, Vijaya Orchid, Vijayapuram, Sarkanda, Police Station Sarkanda, Bilaspur, District – Bilaspur (CG)

---- Petitioner**Versus**

Prahlad Chauhan S/o late Shri Ram Sadan Chauhan, age about 59 years, R/o Arvind Nagar, Imlibhata, Sarkanda, Police Station Sarkanda, Bilaspur (CG)

---- Respondents

For Petitioner : Shri S. P. Kale, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/02/2018**

Present is a case filed by the petitioner assailing the order dated 04.01.2018 passed by the Labour Court, Bilaspur in Case No.54/PWA/15. Vide the impugned order the learned Labour Court has rejected the preliminary objection raised by the petitioner so far as the maintainability of the case is concerned.

2. Counsel for the petitioner submits that the objection which he had raised was touching the maintainability and the jurisdiction of the Authority itself, therefore, the Authority should have decided the preliminary objection first and then should have proceeded to decide the matter on merit.

3. However, perusal of the record would show that the preliminary objection raised by the petitioner was after a substantial period of time of proceedings having proceeded before the Labour Court. The pleadings of the parties were

also complete and the matter was fixed for the evidence of the claimant before the Labour Court when the preliminary objection was filed.

4. Without entering into the merits of the case, once when the respondent raises a preliminary objection even if it is in respect of the maintainability of the case, it should not be thrown out outrightly by the Authority. The correct procedure would be that the Authority should have taken the preliminary objection into consideration and if it is found to be justified, the Authority should have framed an additional issue in respect of the maintainability as per the contention raised by the petitioner and then should have decided the preliminary objection first while deciding the matter on merit. In case, the preliminary objection was found not sustainable, it was only thereafter the Authority required to proceed further to decide the other issues.

5. This Court therefore is of the opinion that ends of justice would meet if the Court below is directed to frame an additional issue of the preliminary objections which have been raised by the petitioner and to decide those preliminary objections first while deciding the matter on merits after all the evidences are complete. It is ordered accordingly. The respondent would also be entitled to raise additional issue, if any, on the next date of hearing which shall also be considered and appropriate issue be framed accordingly on that also before proceeding further.

6. With the aforesaid observation, the petition stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE