

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (L) No. 75 of 2018**

1. Mandhata Prasad Mishra S/o Shri B. G. Mishra, aged about 69 years, R/o 221/6/C, Balco Township (President - Madhya Pradesh, Aluminum Mazdoor Panchayat), Korba, District Korba Chhattisgarh
2. Dinesh Kumar Kurre S/o Late Shri Atmaram Kurre, aged about 42 years, R/o Quarter No. 105, Sector 4/A, Balco Nagar Korba, District Korba Chhattisgarh

---- Petitioners**Versus**

1. Chairman, State Industrial Court, through – Registrar, Ghadi Chowk, Raipur Chhattisgarh
2. Member Judge, State Industrial Court Bench – Bilaspur, Green Park Colony, Jarhabahata , Bilaspur, District Bilaspur, Chhattisgarh
3. Registrar, Trade Union, Block - III, 2nd Floor, Indravati Bhawan Naya Raipur, Raipur, Chhattisgarh
4. Bihari Lal Kavar S/o Shri Kushwaha Singh, ITI Rampur, Korba, Chhattisgarh
5. Lakhan Lal Sahis S/o Late Shri Khuburam Sahis, 289 - B, Sector – 1, Balco Nagar, Korba District Korba, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Lav Sharma, Advocate
For Respondent/State	:	Shri Anand Dadariya, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****09/03/2018**

Present writ petition has been filed seeking for an appropriate direction to the Chairman, State Industrial Court i.e. respondent no.1 for considering and deciding the case of the petitioner instead of directing respondent no.2 to decide the case.

2. Grievance of the petitioner is that during the course of proceedings under Section 28J of the Trade Union Act, there was some sort of verbal altercation between the learned counsel and the learned member Judge of the Industrial Court and certain allegations and counter allegations have been leveled by both sides against each other i.e. by the counsel and the member Judge of the Industrial Court. What is also reflected is that the petitioner had moved an application before the Chairman, State Industrial Court to consider and decide his case instead of leaving the matter to be decided by the member Judge. The Chairman vide Annexure P-4 dated 16.01.2018 has turned down the request of the petitioner and has further directed that the matter be decided by the member Judge himself though a caution has been issued to both the parties to maintain a cordial relationship and judicial decorum during the course of hearing. Further, an observation has been made that if the learned counsel is still not satisfied with the matter being decided by the member Judge, then an appropriate application or procedure for transfer of case should be made by the petitioner.

3. At this juncture, it is relevant to mention that once when a counsel for the petitioner has raised certain doubts in respect of getting full justice in his case from a particular Presiding Judge on account of certain personal allegations being made on either side, it would have been fair enough for ends of justice, the Chairman himself to have heard and decided the case. Further what cannot be lost sight of is the fact that, both under the Industrial Disputes Act so also under different Labour Laws, there is no such procedure or rule framed in respect of transfer of the case being made from one Court to another. Even otherwise, the Chairman being the ultimate Authority should have taken a more pragmatic approach. Once when a party raised some doubts on a particular Officer then it would have been proper if the matter was taken from that Officer and heard by the Chairman himself. At this juncture, the old phrase that "Justice not only should be done but should also appear

to have been done” would be proper. The Chairman is not denuded of power suo motu also he could have called upon a matter from the Bench in the given factual circumstance and should have decided it himself on merits since there is no other Court available. Since there is no procedure under the Act for transfer of a case, the Chairman should have suo motu taken cognizance of the request made by the counsel and should have decided the matter.

4. Given the entire facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the writ petition is disposed of with a direction to Respondent No.1, the learned Chairman, State Industrial Court to call upon the case i.e. Case No. 3/ITU Act/2016 (Mandhata Mishra & another Vs. Registrar Union and others) pending before the Industrial Court Bench at Bilaspur and hear the matter himself on its merit in stead of letting the member Judge against whom there has been serious doubts raised by the counsel in the petition while deciding the case. It is ordered accordingly. It is expected that the learned Chairman shall call upon the matter and decide the same as expeditiously as possible.

5. The petition thus stands disposed of.

Sd/-
(P. Sam Koshy)
JUDGE