

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**Writ Petition (L) No.249 of 2017**

Subhasis Mallick S/o Late Shri D.P. Mallick, Aged About 57 Years
R/o Mohan Jute Mills Staff Colony, Sarangarh Road, Police Station
Jute Mill Police Chowki, District Raigarh Chhattisgarh.

----Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of Labour, Mantralayay, Naya Raipur, Raipur Chhattisgarh.
2. Assistant Labour Commissioner, District Raigarh Chhattisgarh.
3. Mohan Jute Mills Limited, Through Managing Director, 1, KYD Street, (16 A , Palace Court), Kolkata (West Bengal) - 700016.

---- Respondents

For Petitioner	:	Shri KPS Gandhi, Advocate.
For State	:	Ms. M. Asha, Panel Lawyer.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****11.01.2018**

1. The sole grievance of the petitioner is that the Assistant Labour Commissioner (Estate), District Raigarh, vide the impugned order dated 14.11.2017 has refused to entertain the conciliation proceedings only on the ground that the petitioner herein, who was the applicant before the Labour Commissioner, was designated as Personnel Officer.
2. It is settled position of law that the Assistant Labour Commissioner or the Conciliation Officer for that matter is not empowered to decide the status of the workman while entertaining the conciliation proceedings. Refusal of entertaining a conciliation proceedings on the ground that the petitioner was a Personnel Officer by itself would amount to adjudicating the dispute holding the petitioner not to be a workman

under the provisions of the Industrial Disputes Act.

3. The fact, whether the petitioner would be a workman or not is a matter to be adjudicated upon only by the Labour Court after the evidences are recorded.
4. Under the given facts and circumstances of the case, the order dated 14.11.2017 passed by the Assistant Labour Commissioner (Estate), Raigarh, is not sustainable and the same is set aside. The matter is remitted back and the Assistant Labour Commissioner, who in turn, is hereby directed to consider the case of the petitioner on merits and thereafter to pass appropriate order.
5. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge