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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6721/2018 & CM No.25494/2018

RAGHUBAR DAYAL SHARMA & ORS Petitioners

Through: Ms.Aanchal Basur, Advocate

versus

INDRAPRASTHA GAS LIMITED & ORS Respondents

Through: Mr.K.K.Rai, Sr.Advocate with
Mr.S.K.Pandey, Mr.Anshul Rai
& Mr.Anil Bhat, Advocates for
IGL/R-1

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **03.07.2018**

CM No.25493/2018

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6721/2018

1. The petitioners have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India with the following prayers:-

(i) To pass appropriate writ/order directing the respondents that the impugned notices dated 02.06.2018 and 05.06.2018 may not be given effect to.

(ii) To pass appropriate writ/order injuncting the respondents from terminating the services of the petitioners/workmen.

(iii) To pass appropriate writ/order directing that the respondents maintain the status-quo till the outcome of the application, to be filed before the learned Industrial Tribunal.

2. This writ petition has been filed during vacation and was directed to be listed before the Roster Bench for today.

3. Ms.Aanchal Basur, learned counsel for the petitioners submits that there are 73 petitioners who have been served with the notice dated 02.06.2018 informing that IGL had a contract with MESCO only till 1st July, 2018 morning 6 o'clock. The petitioners were called upon to sign certain documents relating to their provident fund and for the purpose of full and final settlement of their dues. They were also directed to deposit their identity cards issued by MESCO.

4. She further submits that as the Industrial Tribunal was closed during summer vacations in June, 2018, the petitioners had no option but to approach this Court, apprehending termination of their services with effect from 01.07.2018.

5. In brief, the case of the petitioners is that they had been employed as Security Guards with the principal employer/R-1 through R-2 and R-3. Though the principal employer had been changing their contractor from time to time, the services of the petitioners continued irrespective of the change of the contractor. But on 02.06.2018, respondent No.3 had issued a notice to all the petitioners informing them about discontinuation of their services on termination of the contract of respondent No.3 with the principal employer with effect from 01.07.2018.

6. The limited prayer made before this Court during hearing of this writ petition is that the operation of the notice dated 02.06.2018 issued by the respondent No.3 be stayed. Prayer has been made in the stay application [CM No.25494/2018] to stay the operation of the notice

dated 05.06.2018 issued by the respondent No.2 informing that the employees of respondent No.3 i.e. the earlier contractor, were free to enter into a contract with any other institution/company after 01.07.2018 as the contract of IGL with respondent No.3 would terminate on 01.07.2018.

7. Learned counsel for the petitioners fairly concedes that the remedy available to the petitioners lies before the Central Government Industrial Tribunal (CGIT) but submits that till the matter is taken up for hearing before CGIT, this Court may protect the interest of the petitioners by directing the respondents not to terminate their services.

8. It may be noted that another writ petition being W.P.(C) 6617/2018 on identical facts was also listed today as item No.3. Learned counsel for the petitioners sought permission to withdraw the writ petition with liberty to approach the CGIT for interim relief by filing an application for early hearing which has been allowed. However, Ms.Aanchal Basur, learned counsel for the petitioners in this petition (item No.4) submits that the writ petition may be disposed of after considering her submissions.

9. At the outset, it is relevant to mention that though the petition has been filed by the 73 petitioners, it has been signed by only one petitioner and the affidavit in support thereof has also been filed by only one petitioner, namely, Mr.R.D.Sharma (petitioner No.1). In the first para of the affidavit, the petitioner No.1 has stated that he has been duly authorized by the rest of the petitioners but no such authorization has been placed on record. Learned counsel for the petitioners has submitted that the authorization is filed by her and the

same is at page 60 of the paper book. However, the Court file contains only 54 pages. In the absence of any authorization given by the petitioners No.2 to 73 in favour of the petitioner No.1, this petition cannot be treated to have been filed by 73 petitioners.

10. The petitioners cannot seek any interim order by invoking the writ jurisdiction of this Court when summer vacations are over and industrial tribunal is functioning.

11. Learned counsel for the petitioners does not dispute that the issues raised by the petitioners being disputed questions of facts, do require adjudication by the industrial tribunal but contends that this Court in exercise of its power under Article 226 of the Constitution of India may protect their interest till the next date of hearing before the Tribunal.

12. The matter in issue falls within the jurisdiction of the Industrial Adjudicator and remedy, if any, against such termination is available only before the Tribunal. Hence in exercise of jurisdiction under Article 226 of the Constitution of India, this Court is not inclined to stay the operation of the order dated 26th January, 2018 till the prayer for interim relief is examined by the Industrial Tribunal.

13. The writ petition is dismissed, along with the pending application.

PRATIBHA RANI, J.

JULY 03, 2018

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