

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15881 of 2017

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Smt. Anita Devi, wife of Shri Manish Soreh, Resident of Ward No. 08, Sarahi Chouk, Saharsa, District-Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Labour, New Secretariat, Vikash Bhawan, Patna
2. Dr. P.K. Mallik nursing Home, Gangjla, P.S.-Sajarsa, District-Saharsa.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Bijendra Kumar Singh, Advocate
For the State	:	Mr. Kumar Samarjeet Singh, A.C. to S.C.-21
For the Respondent No.2	:	Mr. Sanjeev Kumar, Advocate
		Ms. Preeti, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-07-2019

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the private respondent.

2. In this case, the petitioner is challenging the order dated 18.08.2017 passed by the Authority under the Minimum Wages Act, whereby and whereunder he has partly allowed the claim made by the petitioner.

3. The petitioner has claimed that she was appointed in contract of service on payment of salary of Rs.5,000/- per



month, but instead of that she was being paid only Rs.2,000/- per month. When the petitioner made a claim, it was refused, led to filing of application by the petitioner.

4. The machinery created under the Minimum Wages Act is to embark upon to adjudicate the dispute in connection with non-payment of salary in terms of wages fixed under the Minimum Wages Act by the State of Bihar. In the present case, there is no dispute of rate and wages, only the complaint has been made of less payment than the rate fixed under the contract. Hence, the machinery created under the Minimum Wages Act does not have jurisdiction adjudicate such type of issues. Reliance can be placed to the judgment of the Hon'ble Supreme Court rendered in the case of *Mangananese Ore (India) Ltd vs Chandi Lal Saha And Ors.* reported in *AIR 1991 S.C. 520*.

5. In such view of the matter, the impugned order dated 18.08.2017 is set aside. The petitioner, if so advised, may file application under Section 33(C) (2) of the Industrial Disputes Act.

6. As this Court has already decided that the Authority under the Minimum Wages Act does not have



jurisdiction to decide the issue involved in the present case, in such circumstance, the private respondent is at liberty to withdraw the money and that will be released by the authority where the money has been deposited.

7. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	15.07.2019
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