

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18010 of 2013

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Beej Nigam Sharmik Swawalambi Sahyog Samiti Ltd., Kudra, Distric
Kaimur (Bhabhua) through its President Ram Bechan Kewat, S/O Laxmi
Narayan Ram, Resident of Karama, P.S. - Kudra, District - Kaimur Bhabhua,
Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Agriculture Department, New Secretariat, Patna, Bihar.
2. Agriculture Commissioner, Agriculture Department, New Secretariat, Patna, Bihar
3. Managing Director, Bihar Rajya Beej Nigam Ltd. Agriculture Area, Mithapur, Patna, Bihar
4. Regional Manager-Cum-Plant Engineer, Bihar Rajya Beej Nigam Ltd. Kudra, P.O. + P.S. - Kudra, District Kaimur (Bhabhua), Bihar.
5. The Company Secretary Cum Finance In Chief, Bihar Rajya Beej Nigam Ltd, Agriculture Area, Mithapur, Patna, Bihar.
6. M/S Mal Contract Works And Security Services Pvt. Ltd, At - Sukhmay Bihar Colony, Christ Nagar, Shivpur, Dist. Varanasi (U.P.).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rahul Kumar, Adv.
For the Respondent/s	:	Mr. Zaki Haidar, AC to SC9
For the B.R.B.N.	:	Mr. Nalin Vilochan Tiwary, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 03-01-2019

Heard learned counsel for the parties.

The Government of Bihar in its Department Labour Resources vide its Notification No. 3/D-50/2008 L.R-1296 Patna dated 24.4.2009 referred the industrial dispute for adjudication to the Labour Court, Dalmianagar under Section 10(1)(c) of the Industrial Dispute Act, 1947 under the following terms:-

“(1) “Whether denial to recall sixty eight retrenched workers of attached list of Kudra Beej Nigam Plant is justified?”



(2) “Whether denial one time payment of arrear salary of Retrenched workers of Kudra Beej Nigam Plant is Justified?”

(3) “Whether functioning of Kudra Beej Nigam plant on Contract basis is justified?”

If not, what relief workmen is entitled to?”

The Labour Court, Dalmiyanagar, passed Award dated 31.5.2013 against the Bihar Rajya Beej Nigam Mazdoor Union. That award has not been challenged before any court of law and, thus, it has reached its finality.

The present application has been filed for giving a direction to the Management to implement the award. In the present case, the only question is of forum, whether this Court should exercise power of mandamus giving direction to the Management to implement the award or, in view of the amendment made in the Industrial Dispute Act in the year 2010 which itself provides a forum of execution of award, will be the proper forum for implementation of the award. Before 2010 amendment, there was no specific provision under the Industrial Dispute Act prescribing in what manner the award will be implemented or the amount assessed will be extracted from the employer and will be paid to the employee but, after the amendment of 2010, Section 11 has been amended inserting specific provision by way of sub-clause 10 which reads as follows:-



“11 (10) The Labour Court or Tribunal or Natinal Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”

In the present case, a dispute was raised under the Industrial Dispute Act and the award has been made under that Act in favour of the workman. In view of the fact that specific forum has been prescribed, in what manner the award will be executed, in that circumstances, it will not be proper for this Court to entertain the present writ application and give a direction for implementation of the award and it will be proper for the workman to approach to the Labour Court, Dalmianagar with a proper application for transmitting the Award to the civil court for its execution.

If such an application is filed, the Labour Court is expected to pass an order within a period of four weeks from the date of filing of the application for referring the matter before proper civil court for execution of the award. Before passing the order, a notice must be given to the management. The executing court is also expected that as the matter relates to the labour dispute, the execution proceeding will be completed without unnecessary delay.



With the aforementioned observation, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.01.2019
Transmission Date	

