

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6298 of 2010**

Jayant Kumar Shrivastava S/o Bashisth Lal Shrivastava, aged about 50 years, R/o Jhagrakhand, Ward No. 9, Paniha Dafai, District Korea, Chhattisgarh

---- Petitioner**Versus**

1. South Eastern Coalfields Limited Through The Chariman-cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur, Chhattisgarh
2. The General Manager South Eastern Coalfields Limited, Hasdev Area, P.O. South Jhagrakhand, Tahsil Manendragarh, District Korea Chhattisgarh
3. Singhi Collieries Education Society Jhagrakhand, Through The Principal, Higher Secondary School Jhagrakhand (A school governed by Singhi Collieries Education Society, Jhagrakhand) Tahsil Manendragarh, District Korea Chhattisgarh

---- Respondents

For Petitioner : Shri Rishi Rahul Soni, Advocate.
 For Respondent/SECL : Shri Vinod Deshmukh, Advocate.
 For Respondent No.3 : Smt. Anju Ahuja, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Order on Board****15/01/2019**

1. Heard counsel for the parties.
2. The Petitioner claims himself to be an employee of the South Eastern Coalfields Limited ('SECL'). He was working as an Assistant Teacher in the school known as 'Singhi Collieries Education Society', Jhagrakhand, Tahsil Manendragarh, District Korea, Chhattisgarh. The school in question was being granted financial aid and that management was in the hands of the officers of the coal company as is his claim.
3. As per assertion, no doubt, the said school was opened or established as a society by the erstwhile owners prior to the takeover and nationalisation of the

coal-mines, but even thereafter, the management and assistance of the school remained in the hands of the coal company after nationalisation. He is claiming benefit of salary, pay-scale, etc. since the year 1993 at par with the pay-scale of the State Government.

4. A detailed representation was filed by the Petitioner on the basis of the liberty granted to him in the previous round of litigation before the High Court, but the said representation stood dismissed on 08.04.2010 by a detailed speaking order, which is Annexure P/1 and is subject matter of challenge in the present writ application.

5. The speaking order which has been passed indicates that the school was established sometime in the year 1963. It was a registered society and independent body, which was running the affairs. Keeping in mind that the children of the employees working in an around the coal mines including the children of the villages adjoining the colliery area were studying therein, as a welfare measure, some assistance used to be given, but, the school was never taken over after nationalisation. They have no interest whatsoever and if certain employees or officers of the SECL rendered assistance in the management, that was in their individual capacity and SECL had nothing to do with the management as such.

6. The issue raised by the Petitioner in the present writ application is no longer *res integra*. Similar matters have come before this High Court and one of them is *Writ Appeal No.33 of 2011 (Bharat Singh Baghel and Others v. The South Eastern Coalfields Limited and Others)* decided on 26.08.2014. After having considered all the submissions, the Division Bench had this to say :-

“21. As held by the Supreme Court in the matter of S.C. Chandra (supra), only by giving financial assistance from time to time, liability to pay salary and other benefit cannot be saddled only on the ground that institution is extending financial assistance from time to time. There must be master and servant relationship. In the present case, the appellants have

failed to establish the aforesaid master and servant relationship between them and respondents No.1 & 2.

22. As held by the Supreme Court in the matter of *All India Railway Institute Employees' Association* (supra), employees of railway club and railway canteen are not the employees of railway only on the ground that it was managed by railway department. In the present case, only by giving financial assistance by respondents No.1 & 2 is not sufficient to establish the employer and employee relationship between the parties.

23. In the light of the order dated 22.11.2005 passed by the Division Bench in W.P. No.3409/2000, by passing the order in question, learned Single Judge has not committed any illegality.”

7. Counsel for the SECL further points out to the Court that the Division Bench in *Bharat Singh Baghel's case* (supra) relied on a decision of the Hon'ble Apex Court in the case of *S.C. Chandra and Others v. State of Jharkhand and Others* reported in (2007) 2 SCC (L&S) 897, wherein in the identical situation, the Hon'ble Apex Court held that mere grant of financial assistance does not make either an employee of the institution a company owned establishment. The facts of the case in *S.C. Chandra* (supra) are identical to the present case. The only difference being is that the companies involved in the two litigations are different but both are Public Sector Undertakings.

8. The law being what it is as also the Court being satisfied that the school in question is not under the command, control as well the limb of the Respondent-SECL, the liability of any kind which is being claimed by the Petitioner will be that of the management of the school, which is a registered society and not that of the SECL, as is being claimed in the present writ application.

9. Writ has no merit. It is dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE