

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 139 of 2018

Rajasthan Patrika Pvt. Ltd. A Company Registered Under The Provisions Of Indian Companies Act 1956, Having Its Registered And Corporate Office At Keshargarh, Jawaharlal Lal Nehru Marg, Jaipur (Rajasthan) Through Its Authorized Signatory Vinod Kumar Jain Working As Dy. General Manager And Also Having Office At Mangal Bhawan, 1st Floor, Link Road, Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Assistant Commissioner, Labour Department, Government Of Chhattisgarh Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Labour Commissioner, Chhattisgarh Office At Block-3, Second Floor, Indrawati Bhawan, New Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Anil Kumar Devangan, Panday Lakditall Street, Chingraj Para, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Krishna Kumar Dadsena S/o S/o Sh Baburam Dadsena, Bannak Chowk, Sirgitti, Ward No. 15, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Narendra Kumar Sonwani S/o S/o Sh. Jeevan Singh Gangaram Sonwani, Nagar Panchyat Sirgitti, Ward No. 2, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
6. Vivekanand Kashyap S/o S/o Sh. Jeevan Singh Kashyap Village And Post- Kapan, Tehsil Akaltera, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
7. Netram Singrol S/o S/o Sh. Ashok Kumar Singrol Maa Bhawani Nagar, Sirgitti, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
8. Swapndeeep Ramteke S/o S/o Sh. Malik Ramteke, Maa Bhawani Nagar, Ward No. 4, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
9. Shailendra Kumar Dwivedi S/o S/o Sh. Ramprasad Dwivedi, Nagar New Sarkanda, Ahead Shahu Shop, Gali No. 3, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

10. Pramod Kumar Patel S/o S/o Sh. Ganpat Prasad Patel Ashram Parisar, Sirgitti, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
11. Komal Singh Thakur S/o S/o Sh. Sudhir Singh Thakur, Ajad Nagar, Masan Ganj, Sarju Bageecha Gali Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

WPL No. 79 of 2019

Rajasthan Patrika Pvt. Ltd. A Company Registered Under The Provisions Of Indian Companies Act 1956, Having Its Registrered And Corporate Office At Keshargarh, Jawaharlal Nehru Marg, Jaipur, (Rajasthan) Through Its Authorized Signtory Vinod Kumar Jain S/o Motilal Jain Aged About 53years, Working As Dy. General Manager And Also Having Office At Mangal Bhawan, 1st Floor, Link Road, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Swapndeeep Ramteke S/o Shri Malik Ramteke Maa Bhawani Nagar, Ward No. 4, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Forte Foliage Pvt Ltd., Through Its Director Having Address At 217, Laxmi Complex, M.I. Road, Jaipur, Rajasthan, 302-001., District : Jaipur, Rajasthan
3. Labour Court Bilaspur Tilak Nagar, District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

WPL No. 81 of 2019

Rajasthan Patrika Pvt.Ltd. A Company Registered Under The Provisions Of Indian Companies Act 1956, Having Its Registered And Corporate Office At Keshargarh, Jawaharlal Nehru Marg, Jaipur Rajsthan. Through Its Authorized Signatory Vinod Kumar Jain S/o Motilal Jain, Aged About 53 Years, Working As Dy. General Manager And Also Having Office At Mangal Bhawan, 1st Floor, Link Road, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Anil Kumar Devangan S/o Jagmohan Devangan R/o Pandey Lekditall Street, Chingraipara, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Forte Foliage Pvt. Ltd. Through Its Director, Having Address At - 217, Laxmi Complex, M.I. Road, Jaipur, Rajasthan 302-001., District : Jaipur, Rajasthan
3. Labour Court Bilaspur Tilak Nagar, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

WPL No. 86 of 2019

Rajasthan Patrika Pvt. Ltd A Company Registered Under The Provisions Of Indian Companies Act 1956, Having Its Registered And Corporate Office At Keshargarh, Jawaharlal Nehru Marg, Jaipur (Rajsthan) Through Its Authorized Signatory Vinod Kumar Jain, S/o Motilal Jain, Aged About 53 Years, Working As Dy. General Manager And Also Having Office At Mangal Bhawan, 1st Floor, Link Road, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Krishan Kumar Dadsena S/o Sh. Baburam Dadsena, Bannak Chowk, Sirgitti, Ward No. 15, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Forte Foliage Pvt. Ltd. Through Its Director, Having Address At 217, Laxmi Complex, M.I. Road, Jaipur Rajasthan, 302-001., District : Jaipur, Rajasthan
3. Labour Court Bilaspur Tilak Nagar, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

WPL No. 107 of 2019

Rajasthan Patrika Pvt. Ltd. A Company Registered Under The Provisions Of Indian Companies Act 1956, Having Its Registered And Corporate Office At Keshargarh, Jawaharlal Nehru Marg, Jaipur (Rajsthan) Through Its Authgorized Signatory Vinod Kumar Jain, S/o Motilal Jain Aged About 53 Years, Working As Dy. General Manager And Also Having Office At Mangal Bhawan, 1st Floor, Link Road, Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Vivekanand Kashyap S/o Sh. Jeevan Singh Kashyap R/o Village And Post-Kapan, Tehsil Akaltera, District, Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Forte Foliage Pvt. Ptd. Through Its Director, Having Address At 217, Laxmi Complex, M.I. Road, Jaipur, Rajasthan, 302-001., District : Jaipur, Rajasthan
3. Labour Court-Bilaspur Tilak Nagar, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anshuman Shrivastava, Advocate
For State	:	Mr. Rahul Mishra, Dy. GA
For Respondent/s in WPL 139/2018	:	Mr. S. P. Kale, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/05/2019

1. The basic dispute which has been raised by the petitioner in present writ petitions is that the petitioners have been unnecessarily made a party to the Industrial dispute which has been referred for the adjudication by the State Government to the Labour Court, Bilaspur for deciding the issue as to," whether the workers involved in the disputes are entitled for the wages in terms of the Majithia Wage Board Recommendation".
2. The said reference has been made invoking the provisions of the Section 17(2) of the The Working Journalist and other Newspaper Employees (Conditions of service) and miscellaneous Provisions Act 1955. The petitioner have raised two fold issues in these writ petitions, one is when the petitioner is in fact not the actual employer in the instant case. The second issue is that they had moved an

application under Order (1) Rule 10 for impleading the actual employer as a necessary party to the reference and both these have been turned down by the Labour Court which has led to filing of the present writ petitions.

3. Perusal of the record would show that workers involved in the present writ petitions had approached the State Government claiming for the benefits of Majithia Wage Board Recommendation. Contention of the each of the workers were that they have been employed by the petitioners herein. The state Government i.e. Office of the Labour Commissioner invoking the provisions of Section 17(2) of The Working Journalist and other Newspaper Employees (Conditions of service) and miscellaneous Provisions Act 1955 has made the reference for the Labour Court, Bilaspur to decide the said issue.
4. The stand of the petitioner all along was that they are infact not the actual employer in the instant case and they they have not engaged any of these workers in the present dispute and that the actual owner is somewhere else and not the petitioners, therefore in the absence of the actual employer the dispute itself could not have been proceeded further and reference therefore is bad and rejection of the application under Order (1) Rule 10 is bad.
5. At this juncture when you read the provisions of 17(2) of the Act of 1955, it clearly reflects that the State Government has the power to refer to any labour Court constituted under I.D. Act of 1947 to investigate the issue of the amount payable under the Act of 1955 to the respective employees. It appears that the Labour Court on receipt of the reference from the State Government has registered

the same and has proceeded to decide the same. Now to determine whether the petitioner is actually the employer or not or whether some other agency or establishment is the actual employer, it needs evidence to be brought on record by either side to prove or disprove the stand taken by the petitioner.

6. The said dispute at this juncture cannot be looked into by the High Court exercising its powers of judicial review under Article 226 of the Constitution of India. If according to the petitioners they are not the actual employer the petitioners would have the liberty of raising this plea before the Labour Court and labour Court in turn shall based upon the evidence that the petitioner would lead in this regard to establish that they are not actual employer would proceed further and decide the claim of the petitioner. If the labour Court reaches to a conclusion that the petitioner is not the actual employer or it reaches to the conclusion that some other establishment is the actual employer based upon the evidence brought by the parties, the labour Court shall proceed further to answer the reference accordingly. It is made clear that labour Court would permit the petitioners to take the plea of they not being the actual employer and permitting them to lead evidence in this regard and which the labour Court shall decide while answering the reference in accordance with the law.

7. With the aforesaid observations, the writ petitions stand disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit