

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1961 of 2019**

D.P. Sharaf S/o Late K. A. Shraf, Aged About 62 Years R/o Quarter No. E-22,
15 Block Colony Korba District Korba Chhattisgarh.

---- Petitioner**Versus**

1. S.E.C.L. Marphat - General Manager S.E.C.L. Korba Area, District Korba Chhattisgarh.
2. S. E.C.L. Marphat - C.M.D. S.E.C.L. Seepat Road, Bilaspur Chhattisgarh.

---- Respondents

Petitioner in Person	:	Shri D. P. Sharaf
For Respondents	:	Shri V.R. Tiwari & Shri Vinod Deshmukh, Advocates

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****24/06/2019**

1. The present petition is against the order dated 12/05/2019 passed by Labour Court in exercising the jurisdiction under Industrial Dispute Act.
2. The petitioner in person appears and would submit that a reference was made under the Industrial Dispute Act by the State which is pending adjudication before the Labour Judge under the Industrial Dispute Act. In such proceeding, the petitioner was representing the workers was advancing the cause on behalf of

them. While the petition was pending subsequently an application was filed by the SECL that since the petitioner has advancing the cause after his retirement as an employee of SECL and was presenting in capacity of as an advocate, the SECL may also be allowed to represent through an advocate. The same having been dismissed, the SECL preferred a writ petition bearing WP(L) No. 67 of 2019 wherein on 07/03/2019 the interim stay order/ ex parte order was passed in respect of further proceeding before the Labour Court. Subsequently an application to vacate the said stay order was filed on the ground that the order was passed ex parte and after 2 weeks it loses its efficacy as per Article 226 (3) of Constitution of India and prayer was made that the proceeding of Labour Court may continued. The said prayer was rejected. The present petition is against the order such rejection of prayer dated 12/05/2019 passed by Labour Court while exercising the jurisdiction under Industrial Dispute Act.

3. The petitioner would submit that the order passed on 07/03/2019 would automatically be vacated by virtue of Article 226 (3) as it had a limited period of application therefore an application was filed before the Labour Court to the effect that the stay order has automatically came to an end and the Labour Court was requested to proceed further.
4. It is further contended that in the writ petition bearing WPL No. 67

of 2019, wherein respective parties are described as General Manager South Eastern Coalfields Ltd. Vs. DP Saraf & Ors, the cause title is wrongly been captioned and further referred to Vakalatnama and would submit that particulars of the petitioner are even not disclosed and the name of the person who signed the vakalatnama is undisclosed. He further submit that the affidavit was signed by one Jayant Kumar Mishra and contended in what capacity he has signed the document i.e. affidavit is also not clear therefore the writ petition bearing WPL No. 67 of 2019 would not be maintainable. The petitioner also placed his reliance in the case of ***State Bank of Travancore vs M/s Kingston Computers(I) P.Ltd {(2011) 11 SCC 524 }*** and submits that if the petition is filed on behalf of Corporate body without any resolution of Board of Directors of company which authorizes a particular person to file a suit, in absence thereof, the suit would not be tenable. Further, with respect to pointing out anomaly of the vakalatnama, it is stated the ratio is settled by the Supreme Court in the case of ***Uday Shankar Triyar v. Ram Kalewar Prasad Singh and Anr. (AIR 2006 Supreme Court 269)*** and referred Para 21 thereof and submit that if the name and the designation of the authority present executing the vakalatnama is not been categorically given the petition of the legal proceeding like nature cannot be proceeded to.

5. Per contra, learned counsel for the respondent opposes the argument and would submit that all the contention of the petitioner can be considered in the writ petition itself in the writ petition bearing WPL No. 67 of 2019 wherein the order 07/03/2019 has been passed.
6. Perused the document. The facts would reveal that on a reference case when an application was filed by the respondent SECL to be represented through the advocate, the same was dismissed. Against such dismissal a writ petition was preferred by respondent and the parties were described as *General Manager South Eastern Coalfields Ltd. Vs. DP Saraf & Others*. The said writ petition bears WPL No. 67 of 2019. In such case an interim order was passed on 7/03/2019, which was ex parte, whereby the proceeding before the Labour Court in reference case was stayed. Subsequently by invoking provisions to Article 226 (3) (b) of Constitution of India an application was preferred before the Labour Court that stay has automatically had comes to an end with lapse of time by virtue of aforesaid article. The Labour Court however did not accepted the contention of the petitioner, hence this petition. In any case the nucleus of the dispute is from the reference which is pending adjudication before the Labour Court under the Industrial Dispute Act. In such dispute against the order of Labour Court writ petition was

preferred. In such writ petition interim ex parte order was passed on 07/03/2019. Consequently the series of cause of action is one and same for which already a lis is pending before the Court. The Court are bound to observe the judicial discipline beside the petition must be maintainable before the Court to decide an issue. The order passed by the coordinate Bench cannot be interpreted or interfered by other Bench as it would led to destroy the judicial system. Since WPL No. 67 of 2019 is pending, the grievance of the petitioner can be very well agitated in such petition wherein all the contention of the petitioner can be put forth which would be for the consideration of the concerned Court. At this stage, any judicial verdict by this Court would amount to interference with the order dated 07/03/2019 passed by other Bench in different case. In view of the facts as aforesaid I am not inclined to entertain the petition.

7. Accordingly, the petition stand dismissed.

Sd/-
Goutam Bhaduri

Judge

Jyoti