

Senior Counsel requests that interim protection which was in continuation since 11/10/2018 in favour of the petitioners be continued for further reasonable period.

3. This request is strongly opposed by the learned Counsel for the respondents. Learned Counsel for the respondents No.1 to 3 invited my attention to the impugned order of the Industrial Court. She relied upon the following decisions of the Apex Court while opposing the continuation of the interim relief for some duration.

(i) Rashtriya Chemicals & Fertilizers Ltd and another Vs. General Employees Association and others (2007) 5 Supreme Court Cases 273;

(ii) Rahman Industries Private Limited Vs. State of Uttar Pradesh and others (2016) 12 Supreme Court Cases 420;

(iii) National Thermal Power Corporation and others Vs. Badri Singh Thakur and others (2008) 9 Supreme Court Cases 377.

4. Learned Counsel for respondents No.1 to 3 would

contend that the respondents have no privity of contract with the petitioners. According to her, the respondents privity of contract was only with M/s.Nirmal Fabrication & Erection Pvt.Ltd. who are the Contractors. The concerned employees were contract employees of M/s.Nirmal Fabrication & Erection Pvt.Ltd. After termination of the contract, employees have no right to continue in the employment of the respondents. She would submit that once the Industrial Court has come to a conclusion that it has no jurisdiction to entertain the complaint, then further directions to protect the services of the workmen for further period as stipulated in the order are uncalled for. For, according to her, this amounts to foisting the contract employees on the respondents even when there is no privity of contract between respondents and contract employees. This according to her is completely contrary to the scheme of the Contract Labour Act.

5. Learned Counsel for respondents No.1 to 3 further would submit that once the Industrial Court has to come to

conclusion that there is no employer and employee relationship, then even this Court can not pass any interim order and, for that matter even a limited protection in favour of the employees as respondents are not State within the meaning of Article 12 of the Constitution of India.

6. I find that the interim protection was granted in favour of the petitioners as far back as on 11/10/2018. As the petitioners seek leave to withdraw the Petition, in the interest of justice, I am inclined to continue interim protection for a further period of 3 weeks from today. As a limited protection is granted in favour of the petitioner, I do not propose to deal with the objections of learned Counsel for the respondents.

7. The Petition is allowed to be withdrawn with liberty to adopt appropriate proceedings. The interim protection granted by this Court to continue to operate for a further period of 3 weeks from today.

(M.S.KARNIK, J.)