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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 21.02.2019

+ W.P.(C) 8660/2016 & C.M. No.35636/2016 (for stay)

M/S PRASAD PSYCHO CORPORATION & ANR..... Petitioner

Through: Mr.Mukesh Rana, Mr.Mohit Singhal,
Mr.Abhay & Ms.Mamta, Advs.

versus

LABOUR DEPARTMENT & ANR Respondents

Through: Mr.Pramod Kumar & Mr.Shavej
Khan, Advs. for R-1.
Mr.Rishu Kant Sharma, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioners namely M/s. Prasad Psycho Corporation based in Delhi and M/s. Indian Institution of Psychology based in Noida have sought quashing of order dated 17.02.2016 passed by the competent authority under the Delhi Shops and Establishment Act, 1954 (hereinafter referred to as 'the Act') based on a complaint filed by the respondent no.2.
2. The brief facts as emerge from the record and are necessary for adjudication of the present petition may be noted. The respondent no.2

claiming to have been working as an Assistant Professor (Guest) of petitioner no.2 from April, 2014, on the last drawn wages of Rs.3,000/- per day along with Rs.10,000/- for each topic per workshop, filed a complaint before the competent authority under the Act on 25.08.2015, claiming a sum of Rs.1,85,000/- from the petitioners. In her complaint, she alleged that she had worked with petitioner no. 2 institute for 70 days between 15.04.2014 and 10.07.2014, but had not been paid her wages for the said period. A perusal of the claim made by the respondent no.2 shows that she had impleaded not only the petitioner no.2, Indian Institute of Psychology based at Noida but had also impleaded petitioner no.1, i.e., M/s. Prasad Psycho Corporation based at Delhi through its sole proprietor who was also the Acting Chairman of petitioner No. 2, is the sole proprietor.

3. Since the petitioner no.1, i.e. M/s. Prasad Psycho Corporation was admittedly based at Delhi, respondent no.2's claim petition was entertained and allowed by the Competent authority in Delhi. Impugning the said order, learned counsel for the petitioners states that a perusal of the claim statement filed by the respondent no.2 as also the statement of one, Ms. Jyoti Gupta, who had stepped into the witness box in support of respondent no.2's claim, in itself makes it evident that the respondent no.2 was never engaged by the petitioner no.1/corporation and had been engaged only by the petitioner no.2 at Noida. He states that respondent no.2 had wrongly impleaded petitioner no.1 only in order to invoke the jurisdiction of the authority at Delhi, the competent authority at Delhi did not at all have the territorial jurisdiction to entertain such a claim and therefore, prays that the impugned order be set aside.

4. Neither the learned counsel for the respondent no.1, nor the learned

counsel for the respondent no.2, is able to dispute the aforesaid position that the respondent no.2 was engaged by petitioner no. 2 institute at Noida and never had any connection with the petitioner no.1 in Delhi. It appears that this facet was not brought to the notice of the competent authority at Delhi which eventually passed the order. Thus, it is evident that the petitioners' contention that the respondent no.2's claim, having arisen at Noida, was not subject to the territorial jurisdiction of the competent authority at Delhi deserves to be accepted.

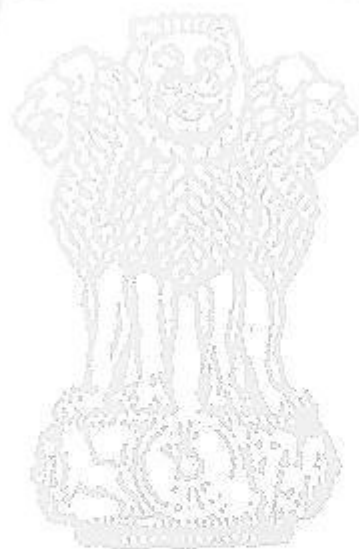
5. At this stage, the learned counsel for the petitioners fairly states that a sum of Rs.25,000/- may have been payable by the petitioner no.2 to the respondent no.2. In these circumstances, instead of requiring the respondent no.2 to now approach the competent authority at Noida for the said amount of Rs.1,85,100/- it is deemed appropriate to direct petitioner no. 2 institute to pay to respondent no.2 the admittedly due amount of Rs. 25,000/- along with reasonable compensation, which is quantified as a sum of Rs. 25,000/-. Thus, while setting aside the impugned order, it is directed that the respondent no.2 will be paid a sum of Rs.50,000/- to the petitioner no. 2.

6. Since the petitioner has already deposited the awarded amount pursuant to the order dated 25.11.2016, passed by this Court, the Registry is directed to immediately release a sum of Rs.50,000/- with proportionate interest accrued thereon in favour of the respondent no.2 and the remaining amount with the accrued interest will be returned to the petitioner. It is made clear that in the event the respondent no.2 intends to pursue her claim over the remaining amount, as originally claimed by her in the claim petition, she would be at liberty to institute proceedings to that effect before the appropriate forum.

7. The petition is allowed and disposed of along with the pending application in the aforesaid terms.

(REKHA PALLI)
JUDGE

FEBRUARY 21, 2019/gm



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