

Item 10.12.2020
No.5 Ct. No. 22
SB

W.P.A. 2609 of 2020

In Re: Orion Security Solutions Pvt. Ltd.

(Through Video Conference)

Mr. Arunava Ghosh
Mr. Soumya Majumder
Mr. Badal Saha
Mr. Debasish Sarkar ... For the petitioner

Mr. Uddipan Banerjee For respondent no. 3

Mr. Tilak Mitra ... For respondent no. 4

The petitioners are directed to correct the name of the respondent no. 4 as it has been pointed by the learned advocate for the respondent that its name has not been properly recorded in the cause title. Such correction is to be made within 11.12.2020.

This is an application praying, *inter alia*, for deciding the maintainability of the proceeding due to lack of jurisdiction. The question has been raised by the petitioner through its application affirmed on 11.09.2019.

In respect of the question of jurisdiction, the presiding officer of the Central Government Industrial Tribunal in the related case being reference case no. 7 of 2013 has observed that the issue of jurisdiction shall be taken up along with merit of the reference as it is a mixed question of law and fact.

As the question of jurisdiction has been taken as a preliminary point, this question has to be decided

first before entering into the merit of the matter. The jurisdictional fact is to be decided first though the evidence has already been adduced by the workers. I interfere with only this part of the impugned order dated 11.09.2019 where it has been stated that the issue of jurisdiction would be taken along with the merit of reference. This part is set aside. The principle is, if the jurisdictional facts do not exist the Court or tribunal cannot act. Exception is, in industrial disputes by raising preliminary issues and demanding separate adjudication thereon the resistance of the workmen cannot be broken. To strike a balance between these two I give shortest possible time to the tribunal to decide the issue.

I direct the presiding officer of the said tribunal to decide the question of jurisdiction first within five weeks from date without giving any adjournment unless it is extremely necessary and for such adjournment, if any given, reasons are to be recorded.

My attention has been drawn by the writ petitioner that they have filed an application raising the question of jurisdiction which is the only preliminary issue raised which has already been referred hereinabove (affirmed on 11.09.2019). This application is to be decided first.

The respondents are granted liberty to serve on the petitioner and file counter to the said application

within a period of two weeks from date before the said tribunal and reply thereto, if any, be served and filed by two weeks thereafter.

The matter will be decided by the presiding officer on the question of jurisdiction first as has been stated above. If the question is decided against the writ petitioner the proceeding will start immediately from the stage of evidence.

With these directions, the writ application is disposed of.

(Abhijit Gangopadhyay, J)