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

+ W.P.(C) 10183/2019 & CM APPLs.6277/2020, 11720/2020,
13656/2020, 15829/2020 & 20961/2020

ABHIJIT MISHRA Petitioner

Through: Petitioner-in-person.

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: Mr. Sanjoy Ghose, ASC for GNCTD.
Mr. B.B.Pradhan, Adv. for respondent
no.3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

31.08.2020

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Proceedings in the matter have been conducted through video conferencing.

CM APPL.20961/2020 (*exemption from filing paper book, signature along with execution of oath etc.*)

The present application under Section 151 of the Code of Civil Procedure, 1908 have been filed on behalf of the applicant seeking exemption from filing duly signed and affirmed affidavits in support of the accompanying applications and to pay the requisite court fees.

For the reasons stated in the application and in view of the present prevailing situation, the same is allowed. The applicant is allowed to file the

duly signed and affirmed affidavits within a period of one week from the date of resumption of regular functioning of the Court. Further, the applicant is allowed to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

With the above directions, the present application is disposed of.

W.P.(C) 10183/2019 & CM APPLs.6277/2020, 11720/2020, 13656/2020 & 15829/2020

1. This Public Interest Litigation has been preferred with the following prayers:-

“a) To direct the Respondent No. 2 i.e Directorate of Health Services and health units of the Government of NCT of Delhi to immediately make the payment of unpaid wages, bonus and benefits to the contractual workers.

b) To direct the Respondent No. 1 i.e Secretary cum Labor Commissioner, Government of NCT of Delhi to initiate action against the Respondent No. 2 i.e Directorate of Health Services and Health Units under the following provision of the Section 22, 22A to 22F of the Minimum Wages Act for contraventions and failure in its compliance of the statutory provisions act.

c) To direct the Respondent No. 1 i.e Secretary cum Labor Commissioner, Government of NCT of Delhi to initiate action against the Respondent No. 2 i.e Directorate of Health Services and Health Units under the following provision of the Section 28 of the payment of Bonus Act for contraventions and failure in its compliance of the statutory provisions act.

d) To direct the Respondent No. 1 i.e Secretary cum Labor Commissioner, Government of NCT of Delhi to initiate action against the Respondent No. 2 i.e Directorate of Health Services and Health Units under the following provision of the Section 23 and Section 24 of The Contract Labour (Regulation and Abolition) Act, 1970 for contraventions and failure in its

compliance of the statutory provisions act.

e) To direct the Respondent No. 3 i.e Central Provident Fund Commissioner (along with the EPFO regional officers) to initiate action against the Respondent No. 2 i.e Directorate of Health Services and Health Units under the following provision of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act) for contraventions and failure in its compliance of the statutory provisions act.

a. Section 7A of the EPF & MP Act for assessment of EPF dues

b. Section 8 and 8A of the EPF & MP Act for recovery of EPF dues

c. Section 14, 14A, 14AA, 14AB, MAC, 14B of the EPF & MP Act for legal actions against the defaulters.

d. In addition, initiate prosecution under section 406 and 409 of the Indian Penal Code for criminal breach of trust against the defaulting officers of DHS and health units.

f) To direct the Respondent No. 4 i.e Director General, Employee State Insurance Corporation to initiate action against the respondent no. 2 i.e Directorate of Health Services and Health Units under the following provision of the Employees State Insurance Act for contraventions and failure in its compliance of the statutory provisions act.

a. Section 85 of Employee State Insurance Act

b. In addition, initiate prosecution under section 406 and 409 of the Indian Penal Code for criminal breach of trust against the defaulting officers of DHS and health units.

g) To award exemplary cost and punitive punishment upon the officials of the Respondent No. 2 for gross violation under the provisions of Article 23 of the Constitution of India.

h) Any other order or directions as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case

be also passed in favor of the Petitioner;

i) Cost of the Present Petition be also allowed in favor of the Petitioner and against the respondent.”

2. Having heard the petitioner in person and counsel for the respondents, it appears that the petitioner has alleged violation of several labour laws, namely, (a) Payment of Minimum Wages Act, 1948; (b) Employees Provident Fund and Miscellaneous Provisions Act, 1952; (c) Employees State Insurance Corporation Act, 1948; (d) Payment of Bonus Act, 1965 and; (e) Contract Labour Regulation and Abolition Act, 1970.

3. It appears that there are general allegations by the petitioner about the violation of the aforesaid labour laws by the respondent No.2.

4. We note that there are separate machineries constituted under the aforesaid labour laws, and the adjudicating and appellate authorities have also been mentioned in the aforesaid Acts. Only after exhausting the aforesaid remedies, the matter can reach this Court in accordance with law.

5. Hence, we are not inclined to entertain this writ petition while exercising our power under Article 226 of the Constitution of India merely on lumpsum/general allegations regarding violation of the aforesaid labour laws. However, we direct the concerned respondent authorities to look into the grievances ventilated by the petitioner and if there is any violation of the aforementioned labour laws, to take remedial steps and initiate actions in accordance with law, rules, regulations and Government policies applicable to the facts of the case.

6. If any further details are required to be obtained by the respondents from the petitioner, the same shall be supplied by the petitioner.

7. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

AUGUST 31, 2020
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