

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13863 of 2019

-
1. Sardul Vikram Gupta Managing Director, Jananmandal Ltd. Aj Bhawan, Sant Kabir Road, Varanashi, U.P.
 2. Sardul Vikram Gupta, Managind Director, Aaj Prakashan Pvt, Aaj Bhawan, Basmandi, Kanpur
 3. Shashi Sukla, Managing Editor, M/s Aaj, Fraser Road, Patna- 800001

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Niyojan Bhawan, Bailey Road, Patna- 800001
2. The Joint Labour Commissioner, Bihar, Labour Resources Department, Niyojan Bhawan, Bailey Road, Patna- 800001
3. The Collector-Cum-District Certificate Officer, Patna (Under Bihar and Orissa Public Demand Recovery Act), Patna Collectariat, Patna.
4. District Panchayat Officer Cum Certificate Officer, Patna.
5. Amlendu Mishra, Son of late Bhagirath Mishra, Village and P.O. Ojhaula, Distt. Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Satyendra Krishna Prasad, Advocate
For the Respondent/s	:	Mr.Anil Kumar Singh (GP-26)
		Mr. Jitendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 23-03-2021 Heard learned counsel for the parties.

2. The petitioners in the present writ application have put to challenge an order dated 16.05.2018, passed by learned Joint Labour Commissioner, Bihar, Patna (Respondent No. 2) in Case No. 130 of 2017, whereby in purported exercise of power under Section 17(1) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and



Miscellaneous Provisions Act, 1955 (hereinafter referred to as 'the Act') has held Respondent No. 5 entitled to a sum of Rs. 27,50,650=00 upon adjudicating his claim, on the basis of Majithia Wage Board recommendation. The Joint Labour Commissioner has accordingly decided to recover the said amount of Rs. 27,50,650=00 by forwarding a requisition for recovery to the Collector-cum District Certificate Officer, Patna under the provisions of Bihar and Orissa Public Demand Recovery Act, 1914.

3. The petitioner has also sought for setting aside the consequential requisition for recovery as contained in letter bearing No. 6/3411 dated 16.05.2018, issued by Respondent No. 2 to the Collector-cum District Certificate Officer, Patna and revised letter issued vide Memo No. 6836 dated 28.09.2018.

4. Respondent No. 5 has entered appearance on service of notice through a Vakalatnama and has filed counter affidavit. Counter affidavits have been filed on behalf of Respondents No. 1 and 2 also.

5. Learned counsel appearing on behalf of the petitioners has submitted that the impugned order passed by the Joint Labour Commissioner is beyond jurisdiction, inasmuch as, he could not have decided the dispute though he could have



referred the dispute under Section 17(2) of the Act to the Labour Court of competent jurisdiction. He has placed reliance on a coordinate Bench decision of this Court reported in **2019(4) PLJR 1173 (Jagaran Prakashan Limited & Ors. vs. The State of Bihar & Ors).**

6. Learned counsel appearing on behalf of Respondent No. 2 has not been able to distinguish the petitioners' case from the case decided by a coordinate Bench of this Court in case of **Jagaran Prakashan Limited** (supra). He does not dispute that the issue, which has been raised in the present writ application, is squarely covered by the said coordinate Bench decision in case of **Jagaran Prakashan Limited** (supra).

7. I have perused the pleadings on record and I have considered the submission advanced on behalf of the respondents, except Respondent No. 5, on whose behalf there is no representation. Yesterday (22.03.2021) also, when the matter was called out, there was no representation on behalf of Respondent No. 5.

8. In case of **Jagaran Prakashan Limited** (supra), an order dated 20.04.2018, passed by the Joint Labour Commissioner-cum-competent authority, Labour Resources Department, Government of Bihar, whereby he had directed for



payment of a sum of Rs. 60,42,749=00 arising out of Majithia Wage Board Recommendations in favour of the employees was under challenge at the behest of a Company engaged in newspaper publication incorporated under the Companies Act. This Court upon examining various statutory provisions and Supreme Court's decisions concluded in paragraphs 44 and 45 as under :-

“44. In view of the aforesaid discussion in the present case and looking to the observation of the Hon'ble Supreme Court in the contempt matter and other connected matters wherein it has been directed that any dispute arising from the recommendation of the Wage Board would be referred to Labour Court in turn adjudicated in terms of Section 17 (2) of the Working Journalist Act.

45. In such view of the matter, this Court is of the view that the Authority, who has passed the order, wrongly assumed the jurisdiction, has gone beyond his power, as he has directed for recovery of the amount on the basis of calculation furnished by Pankaj Kumar, the respondent no.4. The law is very much settled and clear that the Authority will have jurisdiction to recover an amount which has not been disputed, the moment the dispute has been raised, either on the question of law or on fact, the Authority ceases of its power to calculate the amount and to proceed for recovery of the said amount, but in that event, it requires the Government would refer the



dispute to the Labour Court for adjudication.”

9. In view of the admitted aspects of the matter, which have been noted above, following the decision rendered in case of **Jagaran Prakashan Limited** (supra), the impugned order dated 16.05.2018, passed in Case No. 130 of 2017 by the Joint Labour Commissioner, Bihar, Patna is hereby set aside. Consequences of setting aside of the order shall follow. Taking a cue from the decision of the coordinate Bench, the State Government is directed to refer the dispute under Section 17(2) of the Act to the Labour Court of competent jurisdiction.

10. It goes without saying that while adjudicating the dispute the Labour Court will take into account the discussions made by the coordinate Bench of this Court in case of **Jagaran Prakashan Limited** (supra), particularly, the observations made in paragraph 46 thereof.

11. This application is accordingly allowed.

12. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Rajesh/-

U			
---	--	--	--

