

12-01-2021

ct no. 13

Sl.39

pk

WPA 9301 of 2020

**Sukhamoy Nayak
Versus
The Union of India and others**

**Mr. B. N. Ray,
Mr. Biswarup Nandy**

... for the petitioner.

**Mr. Vipul Kundalia,
Mr. Asis Mukherjee**

...for the respondent no. 1

**Mr. Piyush Chaturvedi,
Mr. Uttam Kumar Mondal**

... for the respondent nos. 2 and 3.

**Mr. Uttam Kumar Mondal,
Mr. Adarsh Tripathi**

... for the respondent no. 4.

The writ petitioner applied pursuant to an advertisement issued by the Hindustan Urvarak & Rasayan Ltd. for the post of Chief Manager, HR.

The petitioner participated in the said process by filing an application which was not entertained by the respondents and hence he is aggrieved.

Mr. Chaturvedi, learned counsel appearing for the respondent nos. 2 and 3 submits that this Court has no territorial jurisdiction to entertain the writ petition inasmuch as the employer, the Hindustan Urvarak & Rasayan Ltd. is not located at Kolkata. The advertisement was issued from New Delhi. The vacancies for which the petitioner would have been

considered at UP and Jharkhan i.e. Gorakpur, Sindhir and Barauni.

That the proposed employer is a joint venture of some public sector corporation and that by itself will not make it amenable to the jurisdiction of this Court under Article 226 of the Constitution of India.

Counsel for the petitioner, in reply to the demurrer raised by the respondents' counsel submits that the NTPC is one of the controllers and major shareholders of the proposed employer, the Hindustan Urvarak & Rasayan Ltd. He submits that the same has an office at Kolkata and has been impleaded as respondent no. 4. He further submits that he has applied for the post at Kolkata and hence this Court should entertain the writ petition.

This Court is of the clear view that the Head Quarter of NTPC is outside Kolkata and there is only branch office herein which is impleaded as respondent no. 4. The proposed employer is located at New Delhi and place of posting also is outside West Bengal i.e. in Uttar Pradesh, Jharkhand and Bihar.

Mere making of an application from Kolkata for the post advertised at New Delhi and for posting at places outside Kolkata and by impleading one controlling joint venture partner, whose branch office only located at Kolkata cannot, by any stretch of imagination, confer territorial jurisdiction on this Hon'ble Court to entertain the grievances as contained in the instant writ petition.

This Court notes the dicta of the Hon'ble Supreme Court in the case of **ONGC vs. Utpal Basu** reported in **(1994) 4 SCC 711**, the case of **ABC Laminart vs. A.G. Agencies, Salem** reported in **(1989) 2 SCC 163** and the case of **Alchemist Ltd. Vs. State Bank of Sikkim** reported in **(2007) 11 SCC 335**.

The instant writ petition is, thus, dismissed for want of territorial jurisdiction.

It is, however, made clear that the writ petitioner may agitate the selfsame cause of action in accordance with law before the appropriate Court having territorial jurisdiction in the matter.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)