

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4528 of 2022

Winsome International Limited, a company incorporated under Indian Companies Act 1956 having its registered office at 5th Floor, 16A Brabourne Road, Kolkata 700001, proprietor of M/s Rameshwara Jute Mills, Muktapur, P.O. Navrang, Samastipur, District - Samastipur, Bihar through its Authorized Representative namely Kumar Rajesh, Son of Late Suresh Chandra Prasad, aged about 53 years, R/o Chhapra Colony, New Jakkanpur, P.O. Patna GPO, P.S. - Jakkanpur, Patna 800001, Bihar.

... .. Petitioner/s

Versus

1. The Union of India, through Secretary, Ministry of Labour and Employment, Government of India.
2. The Deputy Labour Commissioner Cum Controlling Authority of Payment of Gratuity Act 1972, Darbhanga Division, Darbhanga.
3. The District Magistrate, Samastipur, Bihar.
4. The Deputy Collector Cum Certificate Officer, Samastipur, Bihar.
5. Md. Jumman Ansari, Son of Maniruddin Ansari, Resident of Village - Daulatpur, P.O. - Muktapur, P.S. - Kalyanpur, District - Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad, Advocate Mr. Sumit Kumar, Advocate
For the Respondent/s	:	Mr. Pradeep Kumar, Sr. CGC Mr. Tarkeshwar Nath Thakur, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL ORDER

2 09-11-2022 In the instant petition, petitioner has prayed for the following reliefs:-

(a) For issuance of appropriate writ(s)/order(s)/direction(s) for quashing the ex-parte order dated 23.05.2018 passed by the Deputy Labour Commissioner cum Controlling Authority of Payment of Gratuity Act, 1972, Darbhanga Division, Darbhanga in Gratuity Case No. 04/2018 whereby and whereunder the Petitioner has been directed to pay the Gratuity amount of Rs.



258,819/- including interest to Respondent no. 5.

(b) For issuance of appropriate writ(s)/order(s)/direction(s) for staying the operation of certificate proceeding qua Respondent no. 5 bearing Certificate Case No. 54/2018-19 and for quashing the entire certificate proceeding pending against the petitioner pursuant to the abovesaid order dated 23.05.2018 whereby and whereunder petitioner has been directed to pay Rs. 256680/- as final payment in the Certificate case vide its order dated 18.01.2020.

(c) For issuance of appropriate writ(s)/order(s)/direction(s) to stay the operation of all the impugned payment Orders until the disposal of this writ application.

(d) For issuance of appropriate writ(s)/order(s)/direction(s) to pass such other order(s), direction(s) to which Petitioner may be found entitled in the facts and circumstances of the instant case."

The petitioner has statutory remedy of appeal before the appellate authority. Without exhausting the remedy of appeal he has approached this Court while invoking Article 226 of the Constitution. Hon'ble Apex Court in the case of **State of Jammu and Kashmir Vs. R.K. Zalpuri and others** reported in **AIR 2016 Supreme Court 3006** held as under:-

"20. Having stated thus, it is



useful to refer to a passage from City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation; (f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

One of the principle laid down by the Hon'ble Apex Court in the aforesaid decision is that the writ court is required to take note off the fact that whether the petitioner has invoked



statutory remedy or not? In the present case, it is undisputed fact that the petitioner has not exhausted statutory remedy.

Accordingly, the present petition stands disposed off reserving liberty to the petitioner to invoke statutory remedy of appeal before the appropriate forum.

(P. B. Bajanthri, J)

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