

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.9396 of 2006

M/s. Lotus Chemicals Ltd. *Petitioner*
Mr. Dayananda Mohapatra, Advocate
-versus-
Dy. General Secretary, Sundargarh Opposite Parties
Industrial Mazdoor Union
None

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIAK

Order No.

ORDER
05.01.2022

05. 1. The challenge in the present petition is to an order dated 16th June, 2006 passed by the Labour Court in I.D. Case No.16 of 2002 allowing Restoration Misc. Case No.7 of 2005 filed by the Opposite Party (Workman) whereby hold that “no dispute award” passed by the Labour Court on 23rd November, 2005, in the absence of workman, was recalled/set aside and the matter was restored to the file of the Labour Court for being proceeded to the Government.
2. By issuing notice to the present petition on 9th August, 2006 the impugned order was stayed by this Court.
3. This Court has heard the submission of Mr. Dayananda Mohapatra, learned counsel for the Petitioner and has perused the record.
4. It is not in the dispute that as a result of the judgment of the Supreme Court in *Grindlays Bank Ltd. v. Central Government*

Industrial Tribunal (1980) Supp (SCC) 420 as well as the subsequent decision in *M/s. Sangam Tape Company v. Hans Raj*, *AIR 2004 SC 4776*, the application filed by Opposite Party No.1 (workman) for recalling was within time. Therefore, this ground of challenge should fail.

5. Mr. Mohapatra, learned counsel for the Petitioner states that the Tribunal did not consider the merits of the application and the contention of the Management is that the workman despite being present did not participate.

6. The Labour Court was in the best position to determine whether in fact the workman was present. The order dated 23rd November, 2005 clearly indicates "today neither the Union is present nor taken any steps. The representative of the Management is present but he does not want to conduct the case in absence of the Union". Therefore, it was clear that before the Tribunal the stand of the Management was that the Union or the workman was not present.

7. For the aforementioned reasons, this Court finds that no ground is made out for interference. The writ petition is dismissed.

8. The interim order stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge