

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1363 of 2011

M/s. J. K. Paper Ltd., Rayagada* *Petitioner

Mr. Narendra Kishore Mishra, Senior Advocate

-versus-

Government of Orissa and others* *Opposite Parties

Mr. Pradeep Kumar Das, Advocate for Opposite Party No.3

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

ORDER

13.04.2022

Order No.

09. 1. M/s. J. K. Paper Mills Limited has filed this petition questioning the order dated 29th December, 2010 passed by the Labour Court, Jeypore, Koraput in ID Case No.2 of 2009 rejecting the prayer of the Petitioner for deletion of its name as a party to the aforementioned case i.e. ID Case No.2 of 2009.
2. It must be mentioned at the outset that by an order dated 24th January 2011, while directing notice to issue to the Opposite Parties i.e. Government of Orissa (Opposite Party No.1), the Contractors (Opposite Party No.2) and the Contract Shramik Sangha (Opposite Party No.3), this Court stayed the operation of the impugned order.
3. The background facts are that the Petitioner has its plant and factory at Jaykaypur and is engaged in manufacture and production of different kinds of papers. Contract labourers are employed in different areas of the plant and factory. Admittedly,

the Petitioner is the principal employer in terms of the Contract Labour (Regulation and Abolition) Act, 1970 ('CLRA Act').

4. Concerned about the non-revision of wages, allowances and other benefits, the Opposite Party No.3-Union raised a dispute for which conciliation proceedings were held between the Workmen and the Contractors. The conciliation proceedings began with notice being issued on 22nd March, 2017 by the District Labour Officer-cum-Conciliation Officer to 30 Contractors of the Petitioner as well as the Workmen represented by the Opposite Party No.3-Union. A copy of the said notice was marked to the present Petitioner. The conciliation proceedings ended in a failure. On 17th March 2009, the Government of Orissa referred the following dispute between the Contractors and the Union to the Labour Court, Jeypore for adjudication:

“Whether the existing wage structure of piece rated contract workman working under different contractors (As per Annexure-III) of M/s. J. K. Paper Mills which includes D.A., V.D.A., annual increment, allowances such as night shift allowances, education allowances, attendance allowance, HRA etc. needs any upward revision? If so what should be the details?”

5. When the Workmen filed a statement of claims in the Labour Court pursuant to the above reference, a copy thereof was served on the Petitioner. Thereafter, notice was issued by the Labour Court to the Petitioner asking it to file its written statement.

6. Asking that its name be deleted from the aforementioned ID Case No.2 of 2009, the Petitioner filed an application before the Labour Court on 20th November, 2010. On 29th December 2010,

the said application was rejected by the Labour Court on the ground that as principal employer, the Petitioner's name was reflected in the schedule of reference and its name could not be deleted as it is a necessary party in the proceedings.

7. It is this order that has been challenged in the present petition and has been stayed by this Court while directing notice to issue.

8. This Court has heard the submissions of Mr. Narendra Kishore Mishra, learned Senior Counsel appearing for the Petitioner and Mr. Pradeep Kumar Dash, learned counsel for the Opposite Party No.3-Union.

9. Mr. Das repeatedly urged that the Petitioner was both the necessary and proper party to the proceedings since it was the principal employer and the Workmen were governed by CLRA Act.

10. However, as rightly pointed out by Mr. Mishra, the dispute referred for adjudication to the Labour Court is not about regularization of the contract labourers but about the wages to be paid to them including DA, VDA, annual increment, allowances and so on. This is a matter exclusively within the domain of the agreement arrived at between the Contractors on the one hand and the Labourers in the other. The Petitioner is not a party to those settlements/ agreements.

11. Giving the nature of the dispute referred for adjudication by the Labour Court, the Court is inclined to agree with Mr. Mishra that although the Petitioner is the principal employer vis-à-vis the Workmen, it is not a necessary party to the ID Case No.2 of

2009. The Court notes that the issue of regularization of the Workmen is not before the Labour Court.

12. Consequently, the Court sets aside the impugned order dated 29th December, 2010 of the Labour Court and directs that the Petitioner will not be a party to the ID Case No.2 of 2009.

13. The writ petition is disposed of in the above terms. Issue urgent certified copy of this order as per rules.

M. Panda

