

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 24 OF 2019 &
CRIMINAL APPLICATION NO. 10 OF 2020.

IN
CRIMINAL WRIT PETITION NO. 1194 OF 2018

Shri Rajiv Ranjan S/o Jagdip Narain Mishra and others
..VS..

The Dy. Chief Labour Commissioner, Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Ghare, Advocate for petitioners.
Mr. N.S. Deshpande, Deputy Solicitor General of India for
respondent Nos.1 and 3.
Mr. Ritesh Kalra, Advocate for respondent No.2.

CORAM : SUNIL B. SHUKRE AND
M.W. CHANDWANI, JJ.

DATED : 16.12.2022

CRIMINAL APPLICATION NO. 24 OF 2019.

Heard.

2. For the reasons stated in the application, the application is allowed.
3. Amendment be carried out on or before the next date.
4. Copy of the amended Petition be filed on record and it be also furnished to each of the respondents with liberty to them to file additional reply, if any.

CRIMINAL APPLICATION NO. 10 OF 2020.

Heard.

2. This application is silent as to under which provision of law, as contained in the Industrial Disputes Act, 1947, the empowered Officer under Section 34 of the Industrial Disputes Act, 1947 would have the power to file a complaint alleging that the Western Coal Fields Limited has committed unfair labour practice, as defined under Section 2 (ra) of the Industrial Disputes Act, 1947.

3. It is the contention of Mr. Ghare, learned counsel for the petitioners, that whenever there is a complaint of indulgence in unfair labour practice made by any of the employees or any Trade Union against the Management, the endeavor is to reach a settlement between the Management or the Union of the employees, as the case may be, and if the settlement is not reached, the dispute is referred to the appropriate Government and thereafter, the appropriate Government finding an element of an industrial dispute, involving an unfair labour practice, as submitted by learned counsel for the petitioners, the appropriate Government would refer the dispute pertaining to following of unfair labour practice by the Management under the 'Fifth Schedule' of the Industrial Disputes Act, 1947 to the Industrial Court or the Labour Court, as the case may be, for its adjudication and it is only after an adjudication regarding occurrence or following of unfair labour practice is recorded by the

Court, a complaint can be filed by an empowered Officer under Section 34 of the Industrial Disputes Act, 1947.

4. The learned counsel for the applicant/respondent No.2, at this stage, is unable to point out as to under which provision of law an Assistant Labour Commissioner could himself render his adjudication regarding taking place of unfair labour practice in an Industry and he also concedes that on this aspect of the matter the Industrial Disputes Act, 1947 is silent.

5. With these submissions made on behalf of both sides, we are of the view that it will be not possible for this Court to decide this application at this stage and it would be better that the issue raised in this application is heard and decided at the time of final hearing of the Petition itself and accordingly, we direct so.

CRIMINAL WRIT PETITION NO. 1194 OF 2018

On the next date, this matter is likely to be taken up for final disposal at admission stage.

2. Stand over after four weeks.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)