

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP No.19537 of 2021 (O&M)
DATE OF DECISION : 5th MAY, 2022

Ram Naresh & others

.... Petitioners

Versus

State of Punjab & Ors.

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Ram Lal Gupta, Advocate for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Shehbag Thind, Advocate
for respondent No.3-employer.

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RAJBIR SEHRAWAT, J. (Oral)

The petitioner has filed this petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus for direction or order for declaring the impugned order dated 02.09.2021 (Annexure P-8) passed by respondent No.2, exercising the power of the State Government, granting the permission to respondent No.3-employer to partially close down the piece rate operation under the department of Machine Shop with effect from 01.10.2021, as illegal and for quashing the same and for restraining the respondent No.3 from terminating the services of the workmen in pursuance of the impugned order.

A perusal of the petition, as well as the submission of the counsel for the parties, shows that the disputed questions of fact and law are intricately interwoven. Hence it would not be appropriate to enter into adjudication in writ jurisdiction qua disputed question of facts. Moreover, Section 25-O(5) of the **Industrial Disputes Act, 1947** contains a provision for approaching the appropriate Government again, by way of review, if any party to the dispute is aggrieved of the order of permission for closure. The authority can also *suo moto* re-consider the same. Therefore, it would be appropriate if the matter is sent back to the appropriate Government for re-consideration of the matter.

Although the counsel for the petitioner has referred to judgments in the case of *Mrs. Sanjana M. Wig Versus Hindustan Petro Corporation Ltd., 2005 AIR 3454*, passed by the Apex Court; *Biddle Sawyer Versus Chemical Employees Union, AIR 1982 SC 82* passed by the Bombay High Court & *Modi Cloth Mills, Ghaziabad Versus State of U.P. & others, 109 FLR 242* passed by the Allahabad High Court, to contend that the review is not an alternate remedy, therefore, the matter deserves to be decided by this court only, however, this court does not find any force in this argument. Even if the review is not a remedy provided to the applicant/petitioner herein, the provision as contained in Section 25-O(5) of the **Industrial Disputes Act, 1947** provides for review by the Government on its own as well. Hence, the Government can exercise the power of review on its own as well, despite the fact that it may not be the remedy available to the petitioner.

In view of the above, the present matter is sent to the appropriate government for re-consideration with a direction that the Government shall take up that issue as a matter in review of the original order passed by it. During the proceedings, now to be conducted by the appropriate Government, the petitioners would be entitled to take all the legal and factual pleas which have been raised in the present petition. The appropriate Government will proceed further in the matter, in accordance with law, including exploring an option to make a reference to the industrial dispute, as is prescribed under Section 25-O(5) of the **Industrial Disputes Act, 1947.**

All the pending applications, if any, stand disposed of accordingly.

5th MAY, 2022
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>