

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

CWP-20680-2022
Date of Decision: 12.09.2022

Sameer Sharma

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Deepanshu Mehta, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari quashing the order dated 26.07.2022 (Annexure P-6) passed by respondent No.2, whereby the order passed by respondent No.3 was reversed and private company was granted permission to lift the machines and accessories from factory premises; as also seeking grant of stay on the impugned order dated 26.07.2022 (Annexure P-6).

The main grievance of the petitioner who is representing workers' Union is that the Appellate Authority has wrongly granted permission to the respondent-employer to shift the machines from factory premises in Punjab to Channai. Learned counsel for the petitioner has submitted that an inquiry was required to be conducted by the Director of Industries, Punjab, before passing the order of shifting of the machines from the factory by the respondent-employer. However, no such inquiry was

conducted. Therefore, the order passed by respondent No.2 is illegal.

A perusal of the paper book shows that the matter for shifting of the machines was pending before the Director of Industries, Punjab, when the petitioner-Union had filed CWP No.6302 of 2021. However, there was no interim order passed in that case. Despite that, the Director of Industries, Punjab, had not passed any final order on the application qua the permission of shifting of the machines, rather had restrained the employer-respondents No.6 and 7, while ordered keeping the matter pending till decision of above said petition. The employer had approached the Appellate Authority. The Appellate Authority has granted hearing to all the concerned parties and has passed the order impugned in the present petition. The said order has been challenged by the petitioner-Union.

The claim of the petitioner-Union per se is non-sustainable in view of the fact that the petitioner as a Union could, at the best, claim a right to be heard at the time of grant of permission for shifting of the machinery. That has duly been granted to the petitioner. Therefore, the petitioner-Union, as such, does not have a locus standi to question the order of granting permission for shifting of the machines by the authorities under the provisions of The East Punjab Factories (Control and Dismantling) Act, 1948 or under the Industrial Disputes Act. The limited right of the petitioner-Union and its members/workers could have been their grievance regarding their service aspects, if at all any such grievance was left unredressed. However, the order granting permission itself mentioned that the respondent-Company is not retrenching/removing any worker from the

factory and existing factory in Punjab shall continue to remain operational, and if at all it is to be shifted from the present place, the same shall be moved only within the State of Punjab. Therefore, the petitioner-Union or its members/workers cannot legitimately raise any grievance regarding their service aspect. Even if there is any grievance regarding the service of the workmen or their retrenchment and non-payment of statutory dues, the petitioner-Union would be having remedy under the relevant provisions of the Industrial Disputes Act.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

12.09.2022
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No