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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4169/2021, CM APPL. 12686/2021

UNITED POLY ENGINEERING PRIVATE LIMITED.... Petitioner

Through: Ms. Anushree Malaviya, Adv.

versus

DEPUTY LABOUR COMMISSIONER SOUTH DISTRICT, GOVT.
OF NCT OF DELHI & ORS. ... Respondents

Through:

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Date of Decision: 1st August, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

The present writ petition has been filed challenging the order dated 20th January, 2020 passed by the Authority under the provision of the Delhi Shops and Establishment Act, 1954 (hereinafter referred as "the Act") exercising the power conferred under Section 21(3) of the Act.

Vide impugned order, the petitioner-M/s United Poly Pvt. Ltd. & Ors. has been directed to pay an amount of Rs.36,000/- to claimant-workman-Sh. Naveen on account of his due earned wages by way of demand draft in favour of claimant along with the payment of compensation amounting Rs.3,000/- within 30 days from receipt of this order.



The petitioner has challenged this order on the ground that the principle of natural justice has not been followed and the opportunity of being heard was not afforded to the petitioner.

Learned counsel has invited the attention to the daily orders passed by the authority starting from 31st December, 2015 when the claim was filed before the Authority.

Learned counsel submits that the perusal of these orders makes it clear that respondent No.2 i.e. Devika Security was not being served at any point of time. It has been submitted that the order was passed in the absence of the petitioner and therefore the matter may be remanded back.

The notice of the present writ petition was issued. However, the respondent No.2 and 3 i.e. the workman- Sh. Navin and M/s Devika Security did not appear and therefore their right to file counter affidavit was closed by this Court vide order dated 22.02.2022.

The perusal of the order sheets placed indicates that the respondent No.2-M/s. Devika Security had never appeared before the Authority. The petitioner herein had filed their written statement and on the basis of the pleadings of the parties, the issues were framed on 19th April, 2017 and the matter was adjourned to 29th June, 2017 for evidence.

On 29th June, 2017 as per order sheet, Sh. M.L.Verma, had appeared for the petitioner, however, none appeared for respondent No.2 and thus notice was issued.



The case kept on adjourning till 26th February, 2019 when the last and final opportunity was given to the workman to file a written statement and the matter was adjourned to 9th April, 2019.

From 9th April, 2019 to 27th November, 2019, none appeared for the petitioner and respondents and thus, matter was reserved for orders.

Learned counsel for the petitioner had written in his written submissions that the respondent No.2 M/s Devika Security was also a necessary party. However, the proceedings happened ex-parte and the final award was passed without passing any formal order.

Learned counsel for the petitioner submits that the matter be remanded back and the petitioner may be given an opportunity to cross examine the respondent-workman.

I consider that the interest of justice would meet if the matter is remanded back and petitioner is given an opportunity to cross examine the workman-respondent.

In these circumstances, the award dated 20th January, 2016 is set aside and matter is remanded back to the labour Court with a direction to grant an opportunity to the petitioner to cross examine the respondent-workman. The learned Labour Court shall also pass an appropriate order against the respondent No.2/M/s Devika Security.

It goes without saying that the petitioner shall also be afforded an opportunity of leading the evidence.



NEUTRAL CITATION NO: 2022/DHC/002997

With these observations, the present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 1, 2022

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