

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18326 of 2016

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Bihar, Patna
2. The Director-cum-Joint Secretary, Urban Development and Housing Department, Bihar, Patna

... .. Petitioner/s

Versus

1. The Bihar Human Right Commission, through its Secretary, 9, Bailey Road, Patna
2. The Assistant Registrar, Bihar Human Right Commission, 9, Bailey Road, Patna
3. Tarun Kumar Jha C/o Shambhu Nath Jha Mohalla- Jyotipuram Colony, Mourya Path, Khejpura, P.O. Veterinary College, District Patna 14
4. The Director, B.S.A. Corporation Limited, 18/20 Sukhbani Fortune, Marwadi Road, Pimpri, Pune 411018

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Shiv Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 12-09-2023

1. The present writ petition has been filed for quashing the order dated 21.09.2016 passed by the Chairperson, State Human Rights Commission, Patna in File No. 1791 of 2016.

2. The brief facts of the case, according to the petitioners, are that an agreement dated 11.11.2014 was executed in between the Urban Development and Housing Department, Government of Bihar, Patna and B.S.A. Corporation Limited for supplying



manpower on contract basis for various posts in the Urban Local Bodies and District Urban Development Agencies, across the State of Bihar. It is the contention of the learned counsel for the petitioners that for some time the work of the private agency i.e. B.S.A. Corporation Limited had been satisfactory, however, subsequently there were lot of complaints with regard to irregularities being committed in supply of manpower, hence a Three Men Committee was constituted to enquire into the matter. The said Three Men Committee had then submitted a joint enquiry report dated 16.09.2016, wherein as far as the B.S.A. Corporation Limited, Pune is concerned, it was observed that as per the agreement the said agency has to first make payment to the employees supplied by it, whereafter it is required to submit bills and then payment is to be made by the Urban Development & Housing Department, Govt. of Bihar, Patna.

3. It is also submitted by the learned counsel appearing for the petitioners that the contract of the aforesaid B.S.A. Corporation Limited has to come an end on 31.10.2015 and in case the said company



has any claim, it has to either invoke clause 9.2 of the Agreement i.e the dispute settlement clause or the dispute resolution clause, contained in “General conditions of contract” or take recourse to such remedies as are otherwise available under the law for enforcement of the terms and conditions of the Agreement in question. It is further submitted that manpower was supplied by the aforesaid B.S.A. Corporation Limited on a purely contractual basis and such employees working at various locations in the State of Bihar, supplied by the said company were to be paid wages by the said company, thus in case the employees have any claim with regard to unpaid wages, the claim would lie as against the said company and not against the petitioners inasmuch as they are not the employees of the State Government but that of the aforesaid company. Nonetheless, it is submitted that the respondent no. 3 had approached the State Human Rights Commission, Patna with a prayer that since his salary for the period April, 2015 upto 09.03.2016 has not been paid by the petitioners, they be directed to pay the same. Consequently, the



Chairperson, State Human Rights Commission has passed the impugned order dt. 21.09.2016 directing the petitioners to pay the unpaid salary to respondent no. 3 and other similarly situated persons along with interest @ 10 % per annum.

4. The learned counsel for the petitioners has referred to Regulation 9 of the National Human Rights Commission (Procedure) Regulations, 1994 (hereinafter referred to as the 'Regulations, 1994'), which is reproduced herein below:-

"9. Complaints not ordinarily entertainable:-*The Commission may dismiss in limini complaints of the following nature:-*

- (i) illegible;*
- (ii) vague, anonymous or pseudonymous;*
- (iii) trivial or frivolous;*
- (iv) barred under section 36(1) of the Act;*
- (v) barred under section 36(2) of the Act;*
- (vi) allegation is not against any public servant;*
- (vii) the issue raised relates to civil dispute, such as property rights, contractual obligations & the like;*
- (viii) the issue raised relates to service matters;*
- (ix) the issue raised relates to labour/industrial disputes;*



(x) allegations do not make out any specific violation of human rights;

(xi) matter is sub-judice before a Court/Tribunal;

(xii) matter is covered by a judicial verdict/decision of the Commission;

(xiii) where it is only a copy of the complaint addressed to some other authority;

(xiv) the matter is outside the purview of the Commission on any other ground."

5. The learned counsel for the petitioners has thus submitted that Regulation 9 of the Regulations 1994, as aforesaid, would demonstrate that issues relating to contractual obligations as also pertaining to service matters/labour and industrial disputes matters do not lie within the domain of the Human Rights Commission and such complaints are required to be dismissed *in limine*. The learned counsel for the petitioners has next submitted that the respondent no. 3 being an employee of the aforesaid B.S.A. Corporation Limited has got no locus to claim any unpaid salary from the petitioners.

6. Though the learned counsel for the respondent no. 3 has been continuously absent on previous occasions and today also he is not present, however,



this Court finds that a counter affidavit has been filed on behalf of the respondent no. 3 from which it is apparent that the respondent no. 3 has failed to demonstrate that he is an employee of the State Government and on the contrary admittedly he is a contractual employee of the aforesaid company in question. Though reliance has been placed on a judgment rendered by the Hon'ble Apex Court in the case of ***Chameli Singh & Others vs State of U.P. & Another***, reported in **(1996) 2 SCC 549**, however, the same is not applicable in the facts and circumstances of the present case inasmuch as the same deals with the right of a person to adequate standard of living, which is required to be addressed by the respective Governments. Yet, another judgment relied upon by the learned counsel for the respondent no. 3 is the one rendered by the Hon'ble Apex Court in the case of ***Harjinder Singh vs Punjab State Warehousing Corporation***, reported in **(2010) 3 SCC 192**, however, the same is also distinguishable in the facts and circumstances of the present case inasmuch as the same deals with legality of the award rendered by



the Labour Court, awarding reinstatement with payment of compensation.

7. Having heard the present case for a considerable time and having gone through the records, this Court finds that the respondent no. 3 is seeking enforcement of contractual obligations and moreover, there is no master and servant relationship in between the petitioners and the respondent no. 3, hence he has no legal right to raise a claim qua the petitioners and at best he could have agitated his grievances as against the aforesaid company by taking recourse to appropriate remedies available under the law. It is apparent from a bare reading of Regulation 9 of the Regulations, 1994, as reproduced herein above in the preceding paragraph, that even otherwise the claim raised by the respondent no. 3 before the State Human Rights Commission, Patna regarding payment of wages does not lie within the domain of the State Human Rights Commission and the Commission ought to have dismissed the complaint filed by the respondent no. 3 *in limine*, nonetheless, it has



passed an order directing the petitioners to make payment of the unpaid salary of the respondent no. 3 along with interest @ 10 per cent per annum, which is not only perverse and illegal but also contrary to Regulation 9 of the Regulations, 1994, hence the order dated 21.09.2016 passed by the Chairperson, State Human Rights Commission, Patna is not sustainable in the eyes of law, thus is set aside, qua the respondent no. 3.

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
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