

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20327 of 2018**

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The National Jute Manufacturers Corporation

... .. Petitioner/s

Versus

1. The Union Of India
2. The Secretary, Labour and Employment, Govt. of India, New Delhi.
3. The Secretary, Heavy Industries and Public Enterprises, Department of Public Enterprises, Public En null Block- 14, CGO Complex, Lodi Road, New Delhi- 110003
4. The Assistant Labour Commissioner C- II Maurya Lok Complex, Patna.
5. Jute Udyog Staff Sangh, RBHM Jute Mill, Katihar.

... .. Respondent/s

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**Appearance :**

|                      |   |                                        |
|----------------------|---|----------------------------------------|
| For the Petitioner/s | : | Mr. Kumar Dhirendra Pratap Singh, Adv. |
| For Responent No. 5  | : | None                                   |
| For the Respondent/s | : | Mr. S.D Sanjay Addl. Soc. Gen.         |

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**  
**ORAL JUDGMENT**

**Date : 12-10-2023**

Heard learned counsels for the parties.

The present writ petition has been filed for the  
following reliefs:

*“(i) For issuance of a writ in the nature of certiorari or any other appropriate writ(s) Order(s) Direction(s) to quash / set aside the Award dated Nil passed by learned Central Government Industrial Tribunal No. 1, Dhanbad in the matter of reference U/S 10(1)(d)(2A) of I.D. Act 1947, Reference No. 52/2013 by which and where under the learned Tribunal against the law and facts of the case and in abrogation of jurisdiction has passed the Award which is nonest in the eye of law which has been communicated to the petitioner vide letter dated 16.05.2018.*



*Copy of Award dated Nil passed by Central Government Industrial Tribunal No.1, Dhanbad in Reference no. 52/2013 along with Communication letter dated 16.05.2018 is being annexed here with and marked as Annexure-1 to this application.*

*(ii) For issuance of a writ in the nature of Certiorari or any other appropriate writ setting aside the notification dated 28.02.2018 by which the above said Award (I.D. No. 52/2013) by which and where under the above said Award has been published and notified.*

*Copy of notification dated 28.02.2018 by which the above said Award (L.D. No. 52/2013) is being annexed here with and marked as Annexure-2 to this application.*

*(iii) For issuance of writ in the nature of Certiorari or any other appropriate writ to set aside the letter issued by Ministry of Labour, Government of India by which dispute under section 10 of Industrial Dispute Act, 1947 has been referred to the Central Government Industrial Tribunal via letter no-1-42011/113/2013 dated 28/10/2013 which is without jurisdiction and without applying its mind as neither the employees are workman under section 2(s) of the Industrial Dispute Act nor the N.J.M.C is the employer under section 2(g) nor there is any industrial dispute under section 2(k) of the industrial dispute Act.*

*Reference No.52/2013 by which the central government without jurisdiction has made Reference to the Central Government Industrial Tribunal, Dhanbad to adjudicate "Whether the action of the*



*management of the National Jute Manufacturing Corporation Limited is erroneous in denying any wage-structure to its mill workmen/employees for such a long period and why should it not do the same within a fixed time period?" as on the date of reference there was no relationship of workmen and employer was there in between the parties as such the very reference itself was without jurisdiction and nonest.*

*True Photo Copy of the Reference No. L-42011/113/2013-IR (DU) dated 28/10/2013 made by Central Government to the Central Government Industrial Tribunal, Dhanbad is being annexed here with and marked as Annexure-3 to this application*

*(iv) Any other relief or reliefs that this Hon'ble High Court deems fit and proper in the facts and circumstances of this case."*

3. Learned counsel appearing on behalf of the petitioner has stated that the tribunal has gone beyond the terms of the reference and passed the impugned order. Learned counsel has further stated that the petitioner's industry was declared as a sick industry and the same was being run by engaging contract labor procured from the contractor. Further, it is stated by the counsel that the case before the authority was liable to be dismissed on the sole ground of not making the contractor a party respondent. Learned counsel has stated that the contractor is a proper



and necessary party to the case before the Tribunal was liable to be dismissed on that ground alone. Further, it is stated that the factory has been closed since the last four months and as on date the factory is closed. Learned counsel has drawn the attention of this Court to the terms of reference and the award passed by the Tribunal to contend that the relief granted in the award is contrary to the terms of the reference.

4. Even though, the private Respondent No. 5 has been put on notice and *vakalatnama* has been filed entered appearance, since the last number of occasions i.e. on 14.12.2022, 24.02.2023, 13.07.2023, 31.08.2023, 14.09.2023, 09.10.2023, and even today, there is no representation on behalf of the Respondent No. 5. Therefore, this Court is constrained to pass orders on the available material.

5. Admittedly, in this case the reference has been made to the Tribunal by the Central Government in exercise of its power conferred by Clause D of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947 and the dispute for



adjudication was referred as under;

*“Whether the action of the management of National jute Manufacturing corporation Limited is erroneous in denying any wage structure to its mill workmen/employees for such a long period and why should it not do the same within a fixed time period?”*

However, as seen from the copy of the award, the Tribunal has passed the following order.

*“On perusal of all the documents as it appears, the documents are unchallenged, photocopies of the documents of the jute mill and insurance papers, PF papers and identity cards. The workmen witnesses have clearly stated that they are the contract workers. There is no doubt to disbelieve those documents. Hence, it is ordered that the concerned workmen be immediately taken in job, as contract labourer and pay them wages as prescribed rate of Government within one month from the publication of the award in the gazette.*

*This is my award.”*

6. The said relief granted by the Tribunal is contrary to the terms of the reference. The Tribunal instead of answering the reference has passed the order directing the management of the petitioner's company to engage the workmen, which is beyond the terms of reference. Therefore, the said direction issued by the Tribunal has to be necessarily set aside as one passed without jurisdiction



and beyond the scope of reference.

7. Having regard to the above mentioned facts and circumstances, the present writ petition is allowed and the impugned award dated Nil passed by learned Central Government Industrial Tribunal No. 1, Dhanbad in the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947, Reference No. 52/2013 is set aside. However, this order does not preclude the Tribunal from passing necessary orders strictly on merits on the reference sought by the Central Government dated 16.05.2018 duly putting all the parties on the notice and giving them a reasonable opportunity of hearing.

8. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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