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12.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

MAT 1733 of 2023

**Kalyani Concern Pvt. Ltd. & anr.
Versus
State of West Bengal & Ors.**

**Mr. D.N. Sharma,
Mr. Niloy Sengupta,
Mr. A. Rai,
Ms. Urmila Chakraborty.
... for the appellants**

**Mr. Abhrajit Mitra, senior adv.,
Mr. S. Mitra,
Mr. Dripto Majumder,
Mr. P.P. Bishwal.
... for the respondent
nos. 3 to 6**

The appellants claim to be shareholder of West Bengal Agro Textile Corporation Limited. The said corporation runs Bharat Jute Mills by three directors, namely Manoj Kumar Taparia, Vinod Kumar Bagaria and Dev Bagaria.

According to appellants on 24th February, 2023 Mr. Vinod Kumar Bagaria the respondent no. 3 herein removed two directors namely Mr. Manoj Kumar Taparia and Mr. Dev Bagaria.and introduced two directors by name Mahesh Sikhwal and Mr. Kanisk Shah.

The appellant lodged a complaint. Mr. Vinod Kumar Bagaria stopped the bank operation and the Jute Mills stopped its function. The wages were not

paid to the workers of Jute Mills. The National Federation of Jute Workers Union approached the Conciliation Officer. According to appellants, the Conciliation Officer did not proceed and, hence, Union Federation filed writ petition being WPA 11544 of 2023. This Court by the order dated 11th May, 2023 directed Joint Labour Commissioner the respondent no. 2 herein to expedite the conciliation proceedings for settlement. This Court also gave liberty to the parties to approach the Joint Labour Commissioner, if they so desire and directed the Joint Labour Commissioner to organize the meeting within 15 days from the date of receipt of such application.

Some of the parties gave memo dated 14th July, 2023 to the Joint Labour Commissioner/Conciliation Officer. On receipt of such memo called the second respondent for a meeting on 17th July, 2023 and 24th July, 2023. In the meeting held on 24th July, 2023 a settlement was arrived at and minutes of the meeting was recorded as follows:-

“Both parties are present in today’s discussion. Have discussions with them. After protracted discussions, both the unions and the management are agreed to the following points:

- 1. The mill shall resume production from 02.08.2023.***
- 2. All kinds of preparatory works including maintenance work, restoration of electricity etc. will be completed by 02.08.2023 i.e., prior to production of the mill.***

3. *The management shall arrange to pay an amount as advance to their workmen after starting of production of the mill and within next salary date.*
4. *During discussions, the unions apprise the management about the dues of workers of the mill and both parties decide that a tripartite meeting will be held in this office of the Joint Labour Commissioner (P), Howrah within one month after starting production of the mill.*
5. *The management shall take all necessary with the ESIC Authority so that the workers can get all facilities under ESIC scheme from the very date of starting of production of the mill i.e., on and from 02.08.2023.*
6. *All other issues, if left, will be discussed and decided in the next tripartite meeting.*
7. *Both the management and the unions will cooperate each other for smooth running of the mill.*
8. *It is agreed that the workers will not interfere into the internal activities of the management.*
9. *It is agreed by both parties that the management will lift one truck finished good (64 to 65 bales) before 02.08.2023, if required.”*

Based on such settlement Mills started running from 2nd August, 2023 and wages to the workers were paid. In the settlement, management was permitted to remove one truck load of manufactured jute.

The appellants filed the present writ petition being WPA 17963 of 2023 alleging that the respondent no.2/Conciliation Officer did not invite the appellants who is the majority shareholder of the Jute Mills. The said writ petition was dismissed by the order dated 9th August, 2023.

Challenging the said order the appellants have come out with the present appeal.

Heard Mr. D.N. Sharma, learned counsel for the appellants and Mr. Abhrajit Mitra, learned Senior counsel for the respondent nos. 3 to 6.

The main contention of the appellants is that the respondent no. 2 did not invite the appellants and the learned Single Judge failed to consider the said issue. The said contention cannot be accepted for the following reason. The appellants claim that they are the majority shareholders and their nominees are the directors of the Company. Learned Single Judge considered the fact that the nominees of the appellants are not shown as directors of the Jute Mills Company in the Company Master Data, has approached the NCLT raising the said issue and Company Petition filed by the appellants in CP 136/KB/2023 is pending and no interim order is granted and considering the pendency of the proceedings before NCLT dismissed the writ petition.

The appellants are raising various grounds of mismanagement of the Company in the present appeal. This claim cannot be decided by the Joint Labour Commissioner who is the Conciliation Officer. This Court by the order dated 11th May, 2023 made a writ petition being WPA 11544 of 2023 filed by National Federation of Jute Workers Union in which the

appellants was the respondent nos. 9 to 14, directed the parties to approach the Joint Labour Commissioner. As per orders of this Court the Joint Labour Commissioner received memo and called for a meeting on 14th July, 2023 and 24th July, 2023 and recorded the minutes of the meeting on 24th July, 2023. From the materials on record it is seen as per the order of this Court dated 11th May, 2023 the appellants did not approach the Joint Labour Commissioner or by filing application or by issuing a memo.

Having failed to utilize the liberty given by this Court by order dated 11th May, 2023 made in writ petition being WPA 11544 of 2023 it is not open to the appellants to raise that Joint Labour Commissioner/Conciliation Officer did not invite the appellants for the meeting. It is not in dispute that the mill is functioning from 2nd August, 2023 and the appellants are alleging mismanagement of the Mills for which it is open to the appellants to approach the appropriate forum, if aggrieved.

Considering all the above materials, we find no reason in the order of the learned Single Judge warranting interference by this Court.

The appeal fails and dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)