

OD-01

ORDER SHEET  
WPO/1754/2023  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
ORIGINAL SIDE

ARVIND KUMAR HELA ALIAS MADAN LAL HELA  
-VS-  
SHREE JAIN VIDYALAYA & ANR.

BEFORE:  
HON'BLE JUSTICE RAJASEKHAR MANTHA  
DATE: 23<sup>RD</sup> NOVEMBER 2023.

APPEARANCE:  
Mr. B. Basak, Adv., appears for petitioner.  
Mr. R. De, Adv.; Mr. S. Baid, Adv.; Mr. S.P. Lahiri, Adv., for the respondent no.1.  
Ms. T. Samanta, Adv., for the State.

THE COURT: The petitioner employee challenges an award of the Third Industrial Tribunal, West Bengal, dated June 29, 2022, in Case No.VIII-15/2015.

The petitioner raised an industrial dispute that was referred to the Industrial Tribunal under section 10 of the Industrial Disputes Act 1947, vide Reference Order no.365, dated April 7, 2015.

The reference was as follows issues :-

- “1. Whether the refusal of employment of Sri Arvind Kr. Hela by the Mgt. Of Shree Jain Vidyalaya w.e.f. 15.07.2013 is justified?
2. If not, what relief Sri Arvind Kr. Hela is entitled to?”

Both the parties led oral and documentary evidence that were received by the Tribunal. The Tribunal found that there was no employer-employee relationship between the writ petitioner and the respondent no.1 school.

It appears from the records and the Provident Fund Authorities under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, as also the ESI Authorities under the Employees' State Insurance Act, 1948 found that the petitioner was not an employee of the respondent no.1 school. Both the documents indicate that he was an employee of the Trust. The said documents are on record.

The Tribunal duly considered the entire evidence on record and particularly the findings of the statutory authorities as indicated hereinabove and arrived at the conclusion that there was no employer employee relationship between the petitioner and the respondent no.1.

This Court has heard the extensive arguments ably advanced by the learned counsel Mr. Barnamoy Basak, appearing for the petitioner, who has placed the entire evidence on record in substantial detail. It is argued that the Tribunal has failed to appreciate the relationship between the respondent no.1 and the Trust. According to the learned counsel, it is the Trust that manages the School and the School is nothing but the alter ego of the Trust.

This Court has also carefully considered the entire proceedings as annexed to the writ petition. There is no violation of the statutory provisions or procedures. The proceedings in the Court below have been conducted in accordance with law. This Court finds that all the relevant materials have been duly duly considered by the Tribunal. None of the findings of the Tribunal can be held to be perverse.

It is clear from the evidence on record that the petitioner has admitted that he was an employee of the Trust in a loan application. There is no other evidence led by the petitioner to establish the argument that the Trust and the School are alter egos of each other.

The Trust and the School have been found to be independent juristic bodies. This Court finds absolutely no perversity in the order. There is substantial evidence on record to support the findings of the Tribunal.

It is now well settled that writ Court under Article 226 does not sit in appeal over the findings of a Tribunal. What is relevant is the decision making process. Even the decision itself can only be question on the basis of clear and apparent perversity. The impugned award and proceedings are not hit on the aforesaid score.

In view of the above, no interference is called for in respect of the impugned Award dated June 29, 2022, passed by the Industrial Tribunal in the matter.

For the reasons stated hereinabove, the writ petition fails and is hereby dismissed. There will be no order as to costs.

(RAJASEKHAR MANTHA, J)

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