

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

MISCELLANEOUS CIVIL APPLICATION NO. 525/2023

(ALL INDIA REPORTER KARMACHARI SANGH, NAGPUR **VERSUS** ALL INDIA REPORTER PVT. LTD.,
NAGPUR & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri R.S. Bhure, counsel for the applicant.
Shri H.A. Chitale with Shri S.P. Deshpande, counsel for the non-applicant no.1.
Shri A.S. Fulzele, Additional Government Pleader for the non-applicant nos.2 to 3.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

ARGUMENTS HEARD ON : JULY 07, 2023

ORDER IS PASSED ON : JULY 14, 2023

Heard.

2. The applicant seeks review of the judgment dated 17.11.2022 passed in Writ Petition No. 6402 of 2019.

3. The learned counsel for the applicant submits that the notification dated 11.05.2016 was struck down by this Court after holding that there was no power conferred on the State Government to make an order of reference on the basis of which the proceedings were considered by the Labour Court. Placing reliance on the decision in *Shambu Nath Goyal and Bank of Baroda, Jullundur* [1978(1) LL.J. 484] as well as the judgment of the Full Bench in *Kashmiri Lal & Others Versus State of Punjab & Another* [AIR 1984 Punjab and Haryana 87], it is submitted that the said notification dated 11.05.2016 was never published in the official gazette and hence it was in the nature of an administrative order. It is on this basis that the Department of Industries, Energy and Labour had allocated the work of referring the dispute to the Labour Court for adjudication. On this count a case was made out to invoke the review jurisdiction since there was an error apparent on the face of record by treating the order dated 11.05.2016 as a notification.

4. On the other hand, the learned counsel for the non-applicant no.1 opposed aforesaid submissions and submitted that there was no error apparent on the face of record. Under the garb of review the applicant sought re-opening of the entire proceedings which was impermissible. He referred to the decisions in *Perry Kansagra Versus Smriti Madan Kansagra* [(2019) 20 SCC 753], *Shanti Conductors Private Limited Versus Assam State Electricity Board & Others* [(2020) 2 SCC 677] as well as the judgment in **R.P (C) Nos. 1273-1274/2021** [*Arun Dev Upadhyaya Versus Integrated Sales Service Ltd. & Another*], dated 05.07.2023 to urge that the application was liable to be rejected.

5. Having heard the learned counsel for the parties and having perused the material on record, we find that the contention that the notification dated 11.05.2016 was never published in the official gazette was not urged when the writ petition was heard. Infact, the order passed by the Labour Court on 23.07.2018 on the basis of the reference made to the Labour Court by the Assistant Commissioner of Labour in view of said notification was supported. It is therefore not permissible for the applicant to contend otherwise now. In any event, we find that after considering the provisions of Section 17(2) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (for short, 'the Act of 1955'), it has been held that the notification dated 11.05.2016 issued by the State Government delegating its power under Section 17(2) of the Act of 1955 to the Additional Commissioner of Labour for making a reference to the Labour Court did not have any statutory support. When the contention raised by the applicant is examined in the light of the principles enumerated in the decisions relied upon by the learned counsel for the non-applicant no.1, we do not find that there is any error apparent on the face of record to invoke review jurisdiction. The miscellaneous civil application is therefore rejected.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

APTE

Signed By: Digitally signed
by RUP DATTATRAYA
APTE
Signing Date:14.07.2023 14:45