



WEB COPY

W.P.No.5457 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.08.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.5457 of 2016

Rajeev Bhatnagar

... Petitioner

Vs.

1. Indian Potash Limited
rep. by its Chairman,
Seethakathi Business Centre,
1st Floor, No.684-690, Anna Salai,
Chennai – 600 006.

2. Managing Director,
Indian Potash Limited
Seethakathi Business Centre,
1st Floor, No.684-690, Anna Salai,
Chennai – 600 006.

3. The Additional General Manager (P&A)
Indian Potash Limited
Seethakathi Business Centre,
1st Floor, No.684-690, Anna Salai,
Chennai – 600 006.

.... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India
praying for the issuance of Writ of Certiorarified Mandamus calling for the
concerned records from respondent Nos.2 and 3 and quash the order of the 3rd
respondent dated 14.12.2015 bearing IPL/ADM/1/SA and the order of the 2nd



respondent dated 07.09.2015 bearing IPL/ADM/1/SA and consequently direct the respondents to reinstate the petitioner with full backwages, continuity of service and all other attendant benefits.

For Petitioner : Mr.Balan Haridas
For Respondent : Mr.S.Haroon
for M/s.TS Gopalan & Co.

ORDER

This Writ Petition has been filed in the nature of a certiorarified mandamus seeking records of the Managing Director and the Additional General Manager (P&A) of Indian Potash Limited, Chennai and also to quash the orders passed by them. The petitioner seeks a further direction to reinstate him with full backwages, continuity of service and all other attendant benefits.

2. Before going into the averments made in the affidavit filed in support of this Writ Petition, it is obligatory on the part of this Court to examine the objection raised on behalf of the respondents.

3. The objection raised was with respect to the jurisdiction of this Court to entertain this Writ Petition and jurisdiction to pass any order either way. The said objection is based on the judgment of a learned single Judge of the Delhi High Court in the case of *Indian Potash Limited & Ors. V. Union of India & others*. (W.P.(C) 7878 of 2015 & CM 15758 of 2015 dated



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4. The challenge in the aforesaid Writ Petition was to an order passed by the Central Information Commission holding Indian Potash Limited, petitioner therein, as 'public authority' under Section 2(h) of the Right to Information Act, 2005. After examining the constitution of the Indian Potash Limited, whether it is a body owned, controlled or substantially financed or non-government organisation substantially financed, directly or indirectly by the funds provided by the appropriate Government, the learned single Judge of the Delhi High Court held that Indian Potash Limited, petitioner therein, was not owned by either the Central Government or by any State Government.

5. After holding so, the learned single Judge of the Delhi High Court brushed aside the contention that a minority shareholding of the said company was subscribed by public sector enterprises and entities in the Cooperative sector and still held that Indian Potash Limited is not a public authority.

6. The aforesaid view of the learned single Judge of the Delhi High Court came up for further interpretation before a Division Bench of this Court in the case of *T.A.Rajagopalan and another V. Indian Potash Limited and another* (W.A.Nos.165 and 166 of 2014 dated 15.02.2021).

7. In the said judgment, the Division Bench again examined the reasons



given by the learned single Judge of the Delhi High Court and stated that it was difficult to hold in the wake of the shareholding position of the company that the first respondent company is anything but a private company not owned or controlled by the Government. The fact that there was an administrative control exercised over the said company was also examined and it was further held by the Division Bench that, that particular administrative control would not be enough unless there was deep and pervasive control of its activities. Holding that flimsy material has been produced to urge that the company was a Government company, the Division Bench had finally held that a Writ Petition under Article 226 of the Constitution of India would not lie against Indian Potash Limited.

8. The present Writ Petition has been filed by the petitioner, who was a former employee of Indian Potash Limited, questioning the order passed in the appeal filed against the order of termination as well the order of termination.

9. The order of termination is dated 07.09.2015. Questioning the order of termination, the petitioner has filed an appeal before the first respondent/Chairman of the said company and that was finally rejected vide order dated 14.12.2015 by the third respondent/Additional General Manager (P&A).



10. Now, due consideration will have to be given to the reasoning given by the Division Bench of this Court in the case of *T.A.Rajagopalan* (supra) holding that a Writ Petition under Article 226 of the Constitution of India would not lie against the respondents herein. However, this Court cannot leave the petitioner high and dry.

11. I am informed that the proper authority before whom the petitioner can express and raise his grievance would be the Appropriate Authority as stipulated under the Shops and Establishments Act. It is also stated that the petitioner was working under the respondents at Meerut and therefore, the jurisdictional authority under the Shops and Establishments Act is situated at Lucknow.

12. The next issue is about the period of limitation. The period of limitation has long passed by the filing of the present Writ Petition, but let me not hold that against the petitioner. The petitioner is granted time till 30.09.2023 to file necessary appeal before the appropriate authority under the Shops and Establishments Act. If it is so filed, the appropriate authority shall take the appeal on file without reference to issue of limitation, but ensure compliance with other statutory conditions, if any.

13. The appropriate authority is also directed not to take into consideration the order passed by the third respondent dated 14.12.2015. The



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authority shall examine the issue afresh on the basis of the records placed and pass necessary orders, after hearing the petitioner, on merits and in accordance with law.

14. This Writ Petition stands disposed of in the aforesaid terms. No costs.

22.08.2023

Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No

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