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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17265-2023 (O/M)

Date of decision : 11.09.2023

Pramod Kumar

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Himanshu Mehta, Advocate for
Mr. Deepanshu Mehta, Advocate
for the petitioner.

:-

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HARSH BUNGER, J.

1. Petitioner (Pramod Kumar) has filed the instant Civil Writ Petition under Articles 226/227 of the Constitution of India, seeking quashing of impugned order dated 26.07.2022 (Annexure P-6), passed by the Principal Secretary, Department of Industries and Commerce, Government of Punjab (respondent No. 2 herein) whereby the order dated 24.05.2022, passed by the Director of Industries, Punjab (respondent No. 3 herein), was reversed and respondent No. 6-Company herein has been granted permission to lift the machines and accessories from the factory premises.

2. Briefly, the petitioner is stated to be one of the workmen, appointed by M/s Freudenberg Nok Private Limited for its factory located at village Basma, District SAS Nagar, Mohali. It is stated that the said factory has another factory located at Chennai and both these units are delivery end

products to the company clients located at North and South India respectively. The petitioner claims that the aforesaid company is intending to close the factory located at SAS Nagar, Mohali since the lease of the company is ending in the year 2024, which is being done with an oblique motive to escape the Government liabilities and liabilities towards the workmen, the Management of respondent-Company has been adopting illegal and arbitrary practices to shift the machines of the factory part by part and eventually shut down the plant.

3. As per the petitioner, respondent-Company is required to obtain mandatory permission under the 'The East Punjab Factories (Control and Dismantling) Act, 1948', before shifting any machine or its parts outside the factory premises. It is stated by the petitioner that since respondent-Company started shifting the machines without obtaining the necessary permission from the State Government, accordingly, the Workers Union filed writ petition (CWP-6302-2021) before this Court, which is stated to be pending. It is the case of the petitioner that another writ petition (CWP-22897-2021) has been filed by second Workers Union [FNI (Contractor) Mazdoor Ekta Union] wherein also notice of motion has been issued and the same is also stated to be pending. It is further stated that respondent-Company applied for transfer of machines, however, the Director of Industries, Punjab (respondent No. 3 herein), vide his office letter No. 2457-B, dated 24.05.2022, declined to grant permission to respondent-Company to shift machines, considering the pendency of the aforesaid two writ petitions before this Court.

As per the petitioner, against the aforesaid order of the Director of Industries, Punjab (respondent No. 3), declining grant of permission to shift machines, was challenged by respondent-Company by filing an appeal before the Principal Secretary, Department of Industries and Commerce, Punjab (respondent No. 2 herein), who vide his speaking order dated 26.07.2022 (Annexure P-6), reversed the order of the Director of Industries, Punjab (respondent No. 3 herein) by observing as under :-

“9. Whereas, plant head stated that on page-15 of the appeal application, it is specified that company is not retrenching/removing any worker who are on roll and the existing factory at Basma shall continue to remain operational until the expiry of lease period and then after, this factory will be moved to Morinda, Punjab which is in State of Punjab only.

10. Whereas, in light of above General Manager District Industry Centre, Mohali was directed to inspect the plant of M/s Freudenberg Nok Pvt. Ltd. to check whether any machine has been brought from Chennai plant to Basma, Punjab and also directed to check how many employees are working on injection moulding machines. Further it has been decided to allow shifting of following 3 injection moulding machines alongwith its supporting machines :-

<i>Sr. No.</i>	<i>Type</i>	<i>Name of Machinery</i>	<i>Number of Machinery/Asset No.</i>
<i>1</i>	<i>Injection moulding</i>	<i>Injection Moulding Machine Model No. ARB-4705 ARBG11</i>	<i>620000000149</i>
		<i>Injection Moulding Machine Model No. ARB-4705 ARBG13</i>	<i>620000000151</i>
		<i>Injection Moulding Machine Model No. ARB-4705 ARBG20</i>	<i>6200000001055</i>
<i>2</i>	<i>Accessories (Cutting and trimming)</i>	<i>Trimming Machine Model No. FT-14</i>	<i>620000004281</i>
		<i>Vacuum Cutting Machine Model : CUT-V-1-2-BLADES-CT40</i>	<i>11362</i>
		<i>Vacuum Cutting Machine Model : CUT-V-1-2-BLADES-CT31</i>	<i>10267</i>
<i>3</i>	<i>Other Accessories</i>	<i>Gway Rolling</i>	<i>194,04/PR/ML/P/1/4G-WAY</i>
		<i>Greasing Machine SFN/05/MK-P-D/06</i>	<i>18757</i>
		<i>Rotary Shaft Oil Seal Machine</i>	<i>10918</i>
		<i>CNC-LATHE Machine OKUMA</i>	<i>11308</i>

And whereas, General Manager District Industry Centre, Mohali was also directed to depute field functionaries to be present at the time of shifting of machines, so that no extra machines except above mentioned machines will be shifted from the Basma plant.”

4. In view of aforementioned circumstances, the petitioner has filed the instant writ petition against the order dated 26.07.2022 (Annexure P-6),

passed by the Principal Secretary, Department of Industries and Commerce, Government of Punjab (respondent No. 2 herein).

5. During the course of hearing of this writ petition, learned counsel for the petitioner has referred to Annexure P-11, which is order dated 22.09.2022, passed in LPA-822-2022, titled as *Sameer Sharma Versus State of Punjab and others*, wherein the following order was passed :-

“ It is the contention of the learned counsel for the appellant that out of total 35 Injection Moulding Machines, as initially installed at the plant of respondent No. 6, 19 machines have already been shifted illegally, qua which the writ petitions have already been preferred and are pending before this Court. Vide the impugned order, which has been circulated on 17.08.2022 (Annexure P-6), 3 more Injection Moulding Machines are being sought to be transferred to Chennai. He, therefore, contends that 22 Injection Moulding Machines would, therefore, be shifted in this process and no machine, till date, has been brought from Chennai plant to Basma plant, Punjab. Counsel, thus, contends that the apprehension of the appellant is no more a fiction.

Notice of motion, for 14.12.2022.

Mr. Paramjit Batta, Addl. A.G. Punjab, accepts notice on behalf of respondents No. 1 to 5.

Dasti notice to respondents No. 6 and 7 as well for the date fixed.

Status quo, as it exists with regard to the machines at present in Basma Plant unit 1 & 2 of respondent No. 6, shall ensure till the next date of hearing.”

6. On a query to learned counsel for the petitioner, it has been informed that the appeal (LPA-822-2022) has been filed against an order dated 12.09.2022, passed by a Coordinate Bench of this Court in CWP-20680-2022, dismissing the writ petition (CWP-20680-2022), challenging the order dated 26.07.2022, passed by the Principal Secretary, Department of Industries and Commerce, Government of Punjab (respondent

No. 2 herein), which is also sought to be challenged in the instant writ petition.

7. Faced with this situation, learned counsel for the petitioner has fairly stated that the factum of similar writ petition having been filed against order dated 26.07.2022 (Annexure P-6), as challenged in the instant writ petition, has not been mentioned in the instant writ petition and neither the order dated 12.09.2022, passed by a Coordinate Bench of this Court in CWP-20680-2022, has been attached with the instant writ petition.

8. Be that as it may, since the writ petition (CWP-20680-2022), challenging the order dated 26.07.2022 (Annexure P-6), which is also sought to be challenged in this writ petition, already stands dismissed, accordingly I do not find any merit in this writ petition and the same is dismissed.

9. Application(s) pending, if any, shall stand closed.

(HARSH BUNGER)
JUDGE

11.09.2023
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No