

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-1200-2022
Date of Decision: 05.01.2023

M/s. Mark Exhaust System Ltd.

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Ms. Abha Rathore, Advocate, for the appellant.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present letters patent appeal is to the order passed by the learned Single Judge dated 01.12.2022 in CM-16421-CWP-2022 in CWP No. 430 of 2021 whereby notice was issued for the date already fixed which is stated to be 18.04.2023. The challenge in the writ petition is to the setting aside of Clause No.1 of the reference order “whether the workers were employed with the management or with the contractor” and to delete the name of the writ petitioner from the array of parties in the reference order dated 04.03.2020.

The said reference was made by the State under Section 10(1) of clause (c) of the Industrial Disputes Act, 1947 and Section 7(a) of the said Act. The issue was pertaining to the workers of Mark Exhaust Theka Sharmik Sanghthan, Gurugram. The terms of reference read thus:-

*“(1) Whether the workers were employed with
Management or with Contractor?”*

*(2) Whether their termination is justified or
not?”*

*(3) Whether workers are entitled for any
relief?”*

A perusal of the application would go on to show that stay of

that last opportunity is given to file appearance and the matter was fixed for 11.10.2022.

Thus, it is apparent that the appellant-management has not even put in appearance before the Labour Court and filed its response. We are of the considered opinion that firstly the present appeal is not maintainable in view of the law laid down in *Midnapore Peoples Co-op. Bank Ltd. and others vs. Chunilal Nanda and others, (2006) 5 SCC 399* since the orders passed by the learned Single Judge are routine orders which are facilitating the progress of the Court and may be causing some inconvenience and prejudice to the party but no final rights or obligations have been determined. The relevant portion of *Midnapore's case (supra)* reads thus:-

“15. The above principle was reiterated in *Mithailal Dalsangar Singh vs. Annabai Devram Kini* [2003 (10) SCC 691] and *Subal Paul vs. Malina Paul, 2003 (2) RCR (Civil) 234 : [2003 (10) SCC 361]*.

In the latter case, this Court held :

"While determining the question as regards clause 15 of the Letters Patent, the court is required to see as to whether the order sought to be appealed against is a judgment within the meaning thereof or not. Once it is held that irrespective of the nature of the order, meaning thereby whether interlocutory or final, a judgment has been rendered, clause 15 of the Letters Patent would be attracted. Clause 15 of the Letters Patent confers a right of appeal on a litigant against any judgment passed under any Act unless the same is expressly excluded. Clause 15 may be subject to an Act but when it is not so subject to the special provision the power and jurisdiction of the High Court under clause 15 to entertain any appeal from a judgment would be effective.

16. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

(i) Orders which finally decide a question or issue in controversy in the main case.

(ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.

(iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.

(iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties."

Faced with this situation and the fact that even appearance has not been put in by the Management before the Labour Court, we are of the considered opinion that the present appeal is not maintainable and even on the ground of equity as such.

Accordingly, the present appeal is dismissed *in limine*.

(G.S. SANDHAWALIA)
JUDGE

05.01.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No