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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 14230/2024, CM APPL. 59592/2024 & CM APPL.
59593/2024

ANIL KUMAR & ORS.Petitioners

Through: Mr. Chirayu, Advocate

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Ms. Avni Singh, Mr. Harshul Mehta,
Advocates for GNCTD
Mr. Sanjay Vashishtha, SC for R-2
with Ms. Harshita Rai, Ms. Vasudha
Saini, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
08.10.2024

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1. The Petitioners are aggrieved workmen who were engaged as contractual maintenance workers at the National Law University, Delhi (Respondent No. 2) and the Delhi Judicial Academy (Respondent No. 3) [collectively, 'the establishment']. Their primary grievance stems from the termination of their services by Respondent No. 4, the contractor hired by the Public Works Department (PWD)/Respondent No. 1, for maintenance and operation services at the establishment located in Sector-14, Dwarka, New Delhi.

2. The factual background narrated in the present petition is as follows:

2.1 The Petitioners were working as contractual maintenance workers at



the campus of the establishment, through the contractor(s) employed by the PWD. While the intermediary contractors kept changing frequently, the Petitioners claim that they have been consistent in providing their maintenance services at the establishment since 2011.

2.2 Pursuant to Tender bearing ID No. 2023_PWD_234964_1 issued by PWD in January 2023, the maintenance contract was awarded to Respondent No. 4. Since the very inception of their contract, Respondent No. 4 started indulging in systemic wage theft against the Petitioners and started falsifying attendance records in order to claim wages against ghost employees.

2.3 Respondent No. 4 also opened fraudulent bank accounts in the names of the Petitioners and retained their ATM cards, in order to defraud the Petitioners as well as the public exchequer. Respondent No. 4 only paid a meagre amount of INR 8,000- 10,000 /- per month to the Petitioners, but forced them to sign documents stating that they were receiving wages to the tune of INR 20,000-21,000/-.

2.4 Aggrieved by the aforementioned wage theft by Respondent No. 4, the Petitioners filed a complaint dated 24th July, 2023 with PWD, however they did not take any action on the said complaint. Rather, upon making of the said complaint, the Petitioners were instantaneously terminated from service.

2.5 The Petitioners also filed a complaint before the Labour Commissioner under the Contract Labour (Regulation and Abolition) Act, 1970, however, the said proceedings were closed without a thorough investigation or any appropriate findings or conclusions.

2.6 The Petitioners also made a representation to their principal



employers, i.e., Respondents No. 1 to 3, but to no avail. In this background, when the Petitioners approached this Court in W.P.(C) 1569/2024, this Court, through dated 05th February, 2024 directed the Respondents to decide the Petitioner's representation, within four weeks from the date of passing of the said order.

2.7 In compliance of the aforesaid order, the Executive Engineer of PWD, who was in-charge of the management and implementation of the contract, constituted an Enquiry Committee comprising Respondent Nos. 5 to 7 to look into the representations made by the Petitioners against Respondent No. 4. However, the said Enquiry Committee, in a premeditated manner, ignored the evidence presented by the Petitioners and prepared Enquiry Report dated 14th May, 2024, observing that no serious lapses were found on part of Respondent No. 4. The said report was prepared with a *mala fide* intention to defraud this Court by portraying that the order of this court dated 05th February, 2024 has been complied with.

3. In light of the foregoing factual background, the Petitioners are constrained to invoke the jurisdiction of this Court once again, seeking the following directions:

- “ a) Issue writ of mandamus and/or any other appropriate writ to the Respondent No. 1-3 to rescind the contract entered into with Respondent No. 4 for routine maintenance at the establishment in terms of Tender Ref No: 22/SE /PWD Circle South-West/2022-23.*
- b) Issue writ of mandamus and/or any other appropriate writ to the Respondent No. 1-3 to blacklist/debar the Respondent No. 4 for the maximum period of time and to take all consequential actions against Respondent No. 4 such as initiation of criminal proceedings, proceedings for cancellation of licenses issued under Employees Provident Fund Act 1952, Employees State Insurance Corporation Act 1948 and Building and Other Construction Workers Act 1996;*
- c) Issue writ of mandamus and/or any other appropriate writ to the Respondent No. 1 to amend the terms of subsequent tender for*



“Routine maintenance and operation of EI & Fans, Compound Lights, High Masts, Lifts, Pumps, Fire Fighting System, AFA & PA System, Sub-Station & DG set and 4 x 400 TR Central HVAC Plant at Delhi Judicial Academy and National Law University at Sector14, Dwarka, New Delhi.” to make provisions for making it mandatory for the new contractor to include workers such as Petitioners who have rendered services for several years at the establishment when, deploying manpower for performance of the tender; d) Issue appropriate writ/order/direction quashing the impugned enquiry report dated 14.05.2024 by the Enquiry Committee headed by Respondent No. 6;”

4. Mr. Chirayu, counsel for the Petitioners, contends that Respondent No. 4 has committed grave violations of labour laws as well as the contractual obligations under the NIT. He refers to specific clauses of the NIT, emphasizing that the PWD is obligated to ensure that its contractor adheres to the tender’s terms and conditions. However, despite multiple complaints lodged by the Petitioners, the PWD has failed to take any corrective action against Respondent No. 4. Additionally, Mr. Chirayu points to the Enquiry Report dated 14th May, 2024, prepared by a committee formed by the PWD, arguing that the report reflects a biased and predetermined outcome, demonstrating a lack of impartiality. He submits that the Respondent Authorities have shirked their duty to take appropriate action against Respondent No. 4

5. To support his claim of fraud by Respondent No. 4, Mr. Chirayu highlights the letter dated 03rd May, 2024, from Respondent No. 4 to the PWD, which states that Petitioner No. 5, Prabhu Sah’s last working day at site was 16th June, 2023. However, referring to the ‘Statement of Account’ dated 11th September, 2023, he argues that salary payments for Prabhu Sah continued until September 2023. This clear contradiction, he contends, reveals wage theft by Respondent No. 4, demonstrating a violation of both



contractual obligations and labour laws.

6. In light of the foregoing, Mr. Chirayu urges the Court to rescind the contract between PWD and Respondent No. 4 amongst other reliefs. He places reliance on the judgment of the Supreme Court in *People's Union for Democratic Rights and Others versus Union of India and Others*¹ to contend that the present petition is maintainable. He highlights that Respondent No. 2, through communication dated 17th February, 2024, has closed the Petitioners' complaint, based on alleged lack of privity of contract with the Petitioners and Respondent No. 4. However, this technical stance, in Mr. Chirayu's view, reflects a failure by the Respondent Authorities to act on clear evidence of misconduct and labour violations. Given the authorities' inaction, he insists that the Court must intervene to redress the Petitioner's grievances by not only rescinding the contract of Respondent No.4, but also taking action of blacklisting, initiation of criminal proceedings and cancellation of licences granted by the statutory authorities.

7. The Court has considered the submissions of the Petitioners, but remains unconvinced. It is pertinent to note that the Petitioners have already availed an alternative statutory remedy by initiating proceedings under the Industrial Disputes Act, 1947, where they seek reinstatement and related reliefs against Respondent Nos. 1, 2 and 4. The conciliation process in those proceedings has failed, and the matter is now awaiting reference to the Industrial Tribunal. The Industrial Disputes Act serves as the specialized legislative framework intended to address the disputes raised by the Petitioners such as wrongful termination, unfair labour practices, and

¹ (1982) 3 SCC 235.



violations of contractual obligations. Thus, this Court finds no compelling reason to exercise its writ jurisdiction when the Petitioners' grievances are squarely within the ambit of the specialized labour dispute resolution mechanism.

8. The Petitioners contend that the enquiry conducted by Respondent Nos. 5-7 was merely an empty formality to give the impression of compliance with this Court's order dated 05th February, 2024 in W.P. (C) 1569/2024. However, in the opinion of this Court, the said order did not specifically direct the Respondents to conduct a full-fledged enquiry, but merely to address the Petitioners' representation. Nonetheless, in response, the Respondent Authorities, recognizing the gravity of the Petitioners' allegations, constituted a Fact-Finding Committee composed of three Assistant Engineers from the PWD. The Committee was tasked with examining the claims of misconduct and violation of contractual obligations by Respondent No. 4. The Enquiry Committee, in their report dated 14th May, 2005, observed that the Petitioners had failed to furnish documentary proof in support of their allegations, and consequently, observed that none of the allegations found by the Petitioners were sustainable, concluding that no serious lapses were found on part of Respondent No. 4. They also noted that Respondent No. 4 is complying with ESI & EPF and other formalities under the agreement. They are also willing to pay one month salary to the affected workers, and are ready to continue the job of the workers. While the Petitioners may not be satisfied with the resolution of the Committee, the Court finds no basis to consider the enquiry a 'sham.' It was conducted with due process and the findings were based on the evidence, or lack thereof, presented by the Petitioners.



9. Furthermore, it is pertinent to note that the Petitioners' complaints revolve around serious allegations of forgery, wage theft, breaches of contractual terms, and violations of labour laws. These issues involve highly disputed questions of fact, which necessitate a thorough examination of evidence. In the considered opinion of this Court, such matters are not suitable for adjudication under writ jurisdiction, as they require fact-finding determination on evaluation of evidence. The appropriate forum for the Petitioners to establish these claims is to continue with their proceedings under the Industrial Disputes Act, where they can present evidence and substantiate their allegations. The Court, therefore, finds no reason to entertain these contentions within the scope of writ jurisdiction.

10. The judgment in *People's Union for Democratic Rights* lays down correct legal principles regarding the maintainability of the writ petition. However, in the considered opinion of this Court, it does not apply to the facts and circumstances of the present case. As discussed earlier, the allegations raised by the Petitioners are inherently complex and involve highly disputed questions of fact. This Court is not the appropriate forum to adjudicate such factual disputes, nor can it entertain the far-reaching reliefs sought, particularly initiation of criminal proceedings, cancellation of licences, or rescission of the contract between PWD and Respondent No. 4

11. In light of the above, the present petition is disposed of along with pending applications.

12. At this juncture, after the Court has already rendered its decision, Mr. Chirayu proposes an interim alternative resolution. He submits that all seven Petitioners are willing to resume their services with Respondent No. 4, without prejudice to their rights and contentions. On this issue, he refers to



the findings of the Enquiry Committee, which records that Respondent No.4 has expressed its willingness to reinstate all workers for maintenance work, with the exception of Mr. Gaurav Kumar, who has been deemed ineligible.

13. However, in light of the Court's findings, it would be appropriate for the Petitioners to pursue such requests before the Labour Court.

14. Accordingly, the present petition is disposed of along with pending applications.

SANJEEV NARULA, J

OCTOBER 8, 2024/ab