

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE

S.B.: HON'BLE MR. S. C. SHARMA, J

WRIT PETITION (S) NO. 229 / 2010

NATIONAL TEXTILE CORPORATION (MP) LTD.,

Vs.

STATE OF MP
& ANOTHER

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O R D E R

(29/9/2011)

The petitioner before this Court has filed this present writ petition being aggrieved by the letter dt. 1/12/2009 passed by the Addl. Labour Commissioner, Government of Madhya Pradesh.

The contention of the petitioner is that the controversy involved in the present case is whether the Central Government is an appropriate Government in relation to the industrial establishment in question ie., National Textile Corporation, keeping in view the definition as contained u/S. 25L(b)(i) of the Industrial Disputes Act, 1947. The contention of the petitioner is that as per the provisions of Sec. 25L(b)(i) as the paid up capital is owned by more than

50% by the Government of India, it is the Central Government which is the appropriate Government in the present case. The contention of the petitioner is that the impugned order (Annexure P/8) by which the respondent No.2 has requested the Collector, Burhanpur for distribution of amount as per the provisions of Sec. 33C (i) of the Industrial Disputes Act is bad in law. Learned counsel for the petitioner has vehemently argued before this Court that in the present case the appropriate Government is Central Government and not the State Government as reflected from the impugned order dt. 1/12/2009 and therefore all the proceedings initiated by the respondent No.2 are bad in law as the State Government is not the appropriate Government in the matter. Learned counsel for the petitioner has vehemently argued before this Court that the Central Government has delegated powers to the State Government and therefore the powers could not have been exercised by the Addl. Labour Commissioner, in the present case. This Court has carefully gone through the notification issued by the Government of India as well as the notification issued by

the State Government where the Addl. Labour Commissioner has been authorised to exercise powers on behalf of the State Government.

A reply has been filed in the matter and the stand of the respondents is that a notification has been issued in exercise of the powers conferred u/S. 39 of the Industrial Disputes Act, 1947 and the Central Government has delegated its power to the State Government by virtue of the aforesaid notification and therefore in the present case the State Government is the appropriate Government. It has also been stated that in exercise of the powers conferred vide notification dt. 17/7/87 the Labour Commissioner has been authorised to take appropriate steps under the provisions of Sec. 33C (i) of the Industrial Disputes Act, 1947 and therefore the letter issued by the Labour Commissioner is in accordance with law.

Heard learned counsel for the parties at length and perused the record.

In the present case, the dispute before this Court is whether the Asstt. Labour Commissioner could have written

the letter impugned in the present case ie., letter dt. 1/12/09 to the Collector, Burhanpur. It has been vehemently argued before this court by the learned counsel for the petitioner that in the present case it is the Central Government which is the appropriate Government keeping in view the provisions of the Industrial Disputes Act, 1947. This Court has carefully gone through the notification issued by the Government of India in exercise of the powers conferred u/S. 69 of the Industrial Disputes Act, 1947 which reads as under :

MINISTRY OF LABOUR
NOTIFICATION

New Delhi the 3rd July, 1998

S.O. 556 (F). - In exercise of the powers conferred by Sec. 39 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby directs that all the powes exercisable by it under that Act and the Rules made thereunder shall, in relation to all the Central Public Sector undertaking and their subsidiaries, Corporation and autonomous bodies specified in Schedule annexed to this Notification be exercisable also by the State Governments subject to the condition that the Central Government shall exercise all the powers under the said Act and Rules made thereunder as and when it considers necessary to do so.

Serial No.	Central Public Sector undertakings, corporations and autonomous bodies.
95.	National Textile Corporation Limited, New Delhi

PADMA BALASUBRAMANIAM, Jt. Secretary.

The aforesaid notification makes it very clear that the

Central Government has delegated all powers exercisable under the Industrial Disputes Act in respect of certain undertakings to the State Government and it is also not in dispute that there is already a Notification issued by the State Government dt. 17/7/87 which empowers the Labour Commissioner to exercise powers u/S. 33 of the Industrial Disputes Act, 1947.

Resultantly, this Court is of the considered opinion that the Asstt. Labour Commissioner has rightly issued the impugned letter dt. 1/12/2009, keeping in view the Notification issued by the Government of India dt. 3/7/98, no case for interference is made out in the matter. The writ petition is dismissed.

In the present case, the workers are fighting for their rights for the last 22 years and not a single penny has been paid to the workers in question on account of the litigation either initiated by the employer or by the employees. The net result is that the workers are suffering for the last 22 years and therefore the respondents are directed to ensure compliance of the order dt. 1/12/09 at an early date.

(S. C. SHARMA)
J U D G E