
(1998) 04 AHC CK 0080

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 13805 of 1992

Hindalco Industries Limited

APPELLANT

Vs

Chief Judicial Magistrate Sonebhadra and Others

RESPONDENT

Date of Decision : 30-04-1998

Acts Referred:

Citation : (1998) 04 AHC CK 0080

Hon'ble Judges : K.D.Shahi, J

Final Decision : Disposed Of

Judgement

K.D. Shahi, J.—Heard.

2. The petition has been filed by M/s Hindalco Industries Limited, Renukoot, district Sonebhadra for quashing the complaint filed by respondent No. 2, Deputy Labour Commissioner, Pipri district Sonebhadra before the Chief Judicial Magistrate, Sonebhadra for nonpayment of bonus to their employees.

3. Notices were issued to respondent No. 3, M/s. Prayag Construction Company, but despite service of notice no counteraffidavit has been filed.

4. The brief facts of the case are that complaints were filed by the Deputy Labour Commissioner against M/s. Prayag Construction Company and M/s. Hindalco Industries Limited (hereinafter referred to as petitionercompany) with the allegations that under the Payment of Bonus Act, 1965 both the accused were liable to pay bonus to their employees for the year 198990 latest by 31st March, 1990, but they did not pay bonus to their employees, hence they are liable to be punished under the provisions of the Payment of Bonus Act, 1965.

5. According to the own allegation of the complainant, M/s. Prayag Construction Company was the employer and the petitionercompany was the main employer. The factual position is that petitioner company was getting its work carried on by M/s. Prayag Construction Company. Thus, the relationship of employer and employee was between M/s. Prayag Construction Company and the employers,

who have claimed bonus for the year 198990.

6. It was argued that there was nothing like main employer and the contractual obligation was to be performed by the employer M/s. Prayag Construction Company alone. There was no legal, contractual or even moral liability of the petitionercompany to pay bonus as envisaged under the complaint.

7. There is substance in the argument advanced by the learned Counsel for the petitionercompany. Since M/s. Prayag Construction Company had employed workmen to carry on the contractual work of petitionercompany, therefore the construction company is liable to pay bonus to its employees. The petitionercompany cannot be saddled with the liability to pay bonus to the employees by M/s Prayag Construction Company. It is well settled that the liability to pay bonus is that of the employer and none else. In the circumstances, the complaint as against M/s. Hindalco Industries Limited is liable to be quashed.

8. In the result, the petition is allowed. The complaint (Annexure1 to the petition) so far as it relates to the petitioner M/s. Hindalco Industries Limited is hereby quashed. The stay order dated 4111994 is hereby vacated. Inform the Magistrate concerned