

(2011) 11 JH CK 0079

In the Jharkhand High Court

Case No : L.P.A. No.381 of 2009 with I.A. No. 3439 of 2010

Hindustan Steelworks Construction Limited, Bokaro

APPELLANT

Vs

Uday Narayan Dubey and Others

RESPONDENT

Date of Decision : 09-11-2011

Acts Referred:

Citation : (2011) 11 JH CK 0079

Hon'ble Judges : Prakash Tatia, J;Jaya Roy, J

Bench : Division Bench

Judgement

1. By Court I.A. No. 3439 of 2010 is allowed as nobody put in appearance to oppose this application for bringing on record the legal representatives of respondent nos.4 and 13.

2. Heard learned counsel for the appellant on merits.

3. The writ petitioners prayed for direction to the respondent to pay salary and other allowance to the teaching and non teaching staffs of the school, alleged to have been established and run by the appellant.

4. The appellant's contention in counter was that in larger interest they provided financial help to the Management of the school and Committee was running the school and, therefore, there was no relationship of the "employer and employee" between the appellant and the teaching and non teaching staffs of the school. The appellant even tried its best to see that the management of the school be taken over by the Government but the Government did not accept the management of the school. The appellant made efforts to get the recognition of the school from the Government, so that the students may not suffer in future. The appellant also secured training education for the teachers employed in the school. The appellant Company also used to appoint the members of the Committee and whenever any of the officers of the Company was transferred from the place, the other officer of the Company was appointed in place of said member of the Committee. The appellant also provided full assistance to all

activities of the school. Not only this, the appellant at page15 of the counter affidavit stated that " the respondent Company reached a point a few days earlier that the entire establishment be closed but somehow the Central Government has given chance to breath a sigh of relief and granted some amount for the regular workers of the respondentcompany so that their back wages could be paid by installments and the workers who have opted for voluntary retirement" and with this pleading, it has been stated that the appellantcompany was running in bad weather.

5. The reply filed by the appellant to the writ petition clearly indicates that reply, in fact, substantially admitted the fact that the school was under the full control, administratively and financially, of the appellantCompany and the members of the Committee was appointed by the appellant Company; financial control was of the Company and the appellantCompany had right to remove the member of the Committee, which is apparent from the reply as the appellant has stated that upon transfer of the employee, new member of the Committee was appointed by the appellantCompany itself. Therefore, the learned Single Judge was fully justified in holding that merely because creating a body, which has no legal entity, the appellant cannot say that, that body which was created by the appellant itself, which is not a legal entity itself alone was responsible to run the school and management was in the control of that Committee alone.