
(2018) 08 DEL CK 0084

In the Delhi High Court

Case No : Writ Petition (C) No. 997 OF 2018 with CM Nos.4180, 4182 OF 2018

Jagran Prakashan Ltd

APPELLANT

Vs

Dileep Kumar Dwivedi

RESPONDENT

Date of Decision : 01-08-2018

Acts Referred:

Working Journalists Act, 1955 — Section 17, 17(1), 17(2)

Citation : (2018) 08 DEL CK 0084

Hon'ble Judges : PRATIBHA RANI, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

PRATIBHA RANI, J

1. The petitioner, Jagran Prakashan Limited has invoked the writ jurisdiction of this Court seeking quashing of the order dated 22nd December, 2017,

passed by the Deputy Labour Commissioner under the Working Journalists & Other Newspaper Employees (Condition of Service and Miscellaneous

Provisions) Act, 1955 [in short Working Journalists Act] and consequent Recovery Certificate issued on 26th December, 2017, whereby recovery of

` 35,13,414/- has been ordered by the said Authority.

2. The petitioner has sought quashing of the order impugned herein inter alia on the ground that in view of the decision of this Court in â??The

Associated Press through its General Manager vs. Laurinda Keys Long and Anr.â?? MANU/DE/1461/2009, wherein it was held that Section 17 (2) of

the Working Journalists Act will apply when disputed questions of facts or disputed question of law or mixed disputed question of facts and law arise.

The jurisdiction of the State Government or Authorised Authority was held to be

limited under Section 17(1) of the Act and confined to narrow

examination for satisfaction whether any amount can be recovered. He has submitted that State Government should have made a reference under

Section 17(2) of the Working Journalists Act to the Labour Court for adjudication.

3. On 9th July, 2018, learned counsel for the respondent submitted that the respondent has no objection if the impugned order is set aside and a fresh

reference may be directed to be made under Section 17(2) of the Working Journalists Act, as has been done in the W.P.(C) 1590/2018 entitled D B

Corp. Ltd. vs. Government of N.C.T. of Delhi & Ors. A copy of the order passed in W.P.(C) 1590/2018 was also placed on record and a copy was

furnished to the learned counsel for the petitioner.

4. On the last date of hearing i.e. 9th July, 2018, as learned counsel for the petitioner sought time to go through the decision of this Court dated 20th

February, 2018 in W.P.(C) 1590/2018 and obtain instructions in this regard, the matter was adjourned for today i.e. 1st August, 2018, to enable the

learned counsel for the petitioner to obtain instructions in this regard.

5. Learned counsel for the petitioner on instructions submits that the petitioner has no objection if this writ petition is disposed of in terms of the order

dated 20th February, 2018, passed by this Court in W.P.(C) 1590/2018, with liberty to the petitioner to raise the issue of territorial jurisdiction before

the appropriate forum. Â

6. Learned counsel for the petitioner submits that appropriate Government may be directed to make a reference to the concerned Labour Court. Â

7. Learned counsel for the respondent submits that without prejudice to the rights and contentions of the parties to agitate the issue of territorial

jurisdiction, direction may be issued to the appropriate Government to make a reference of the dispute to the concerned Labour Court.

8. The order dated 20th February, 2018, passed in W.P.(C) 1590/2018, on which both the parties placed reliance and have requested to dispose of this

writ petition, reads as under:

Â â??W.P. (C) 1590/2018 & CM No. 6542/2018 (for stay)

1. The petitioner seeks quashing of the order bearing No.07/WJA/DLC/NDD/2017/3324-3327 dated 24.11.2017 passed by Sh. U.K. Sinha, Authority

under Working Journalists & Other Newspaper Employees (Condition of Service

and Miscellaneous Provisions) Act, 1955 (hereinafter referred to as the Working Journalists Act) and consequent Recovery Certificate No.07/WJA/DLC/NDD/2017/3357-3361 dated 30.11.2017 directing recovery of Rs.38,37,594/- against them in favour of the respondent no.2.

2. Based on the recommendations of Majithia Wage Board Award which were admittedly accepted by the Central Government on 11.11.2011 the respondent no.2 moved an application before the Deputy Labour Commissioner (in short 'DLC') to initiate the proceedings under Section 17(1) of the Working Journalists Act for recovery of Rs.38,37,594/-.

3. Learned counsel for the petitioner submits that Deputy Labour Commissioner/ respondent no.1 has no jurisdiction to adjudicate the matter. In this regard, he relies upon the judgment of a Single Bench of this Court in the case of The Associated Press through its General Manager Vs. Laurinda Keys and Anr., MANU/DE/1461/2009, wherein it was held that Section 17 (2) of the Working Journalists Act & Other Newspaper Employees Act, 1955 will apply when disputed questions of fact, disputed question of law or when mixed disputed question of facts and law arise and the jurisdiction of the State Government and Authorized Authority is limited under Section 17 (1) of the Act and confined to narrow examination for satisfaction as to whether any amount can be recovered. It was further held that a detailed or elaborate inquiry into disputes and counter claims whether they relate to law, facts or are mixed questions of law and facts is not envisaged under Section 17 (1) of the Act. He submits that the State Government should have made a reference under Section 17 (2) of the Act to the Labour Court for adjudication.

4. The Hon'ble Supreme Court in the case of Avishek Raja & Ors. Vs. Sanjay Gupta, (2017) 8 SCC 435, while dealing with the recommendations of Majithia Wage Board, has held that the dispute that arises has to be resolved by the fact findings authority under Section 17 of the Working Journalists Act. It was further held in para no. 29 that henceforth all complaints with regard to non-implementation of the Majithia Wage Board Award or otherwise be dealt with in terms of the mechanism provided under Section 17 of the Act and it would be more appropriate to resolve such complaints and grievances by resort to the enforcement and remedial machinery provided under the Act rather than by any future approaches to the

courts in exercise of the competent jurisdiction of the courts or otherwise.

5. By order dated 04.10.2016 in the case of Avishek Raja & Ors. Vs. Sanjay Gupta in Contempt Petition (C) No. 411/2014 in W.P. (C) 246/2011, the

Honâ??ble Supreme Court directed that in all cases where there is a dispute with regard to the amount payable, the State Governments shall act

under the provisions of Section 17(2) of the Working Journalists Act and Labour Court will finalize its award expeditiously and send the same to the

State Government for due execution.

6. At this stage, learned counsel for the respondent no.2, having admitted the legal position as referred to in preceding para, on instructions, submits

that he has no objection in case the impugned orders dated 24.11.2017 and 30.11.2017 passed in favour of Respondent no. 2 by the Deputy Labour

Commissioner under Section 17 (1) of the under Working Journalists Act are set-aside and the State Government is directed to refer the disputes

under Section 17 (2) of the Working Journalists Act for adjudication to the Labour Court.

7. In view of the submissions made by the learned counsel for the parties, this writ petition is disposed of with the direction that the respondent

no.1/Govt. of NCT of Delhi shall make a reference of dispute between the petitioner and Respondent no.2 under Section 17 (2) of the Working

Journalists Act to the Labour Court within a period of two months from the date of receipt of the order, and the Labour Court after receiving the

reference from the State Government shall dispose of the matter expeditiously within a period of six months.â??

9. In view of the joint request made by the parties for quashing/setting aside of the order dated 22nd December, 2017 as well consequent Recovery

Certificate dated 26th December, 2017 and disposing of this writ petition in terms of the order dated 20th February, 2018, passed by this Court in W.P.

(C) 1590/2018, the order dated 22nd December, 2017 and consequential Recovery Proceedings/Certificate dated 26th December, 2017 are set aside.

Â

10. The writ petition is disposed of with the direction that appropriate Government shall make a reference of the dispute under Section 17(2) of the

Working Journalists Act to the Labour Court, within a period of two months from the date of receipt of the order.

The Labour Court after receiving the reference from the State Government, shall dispose of the matter expeditiously.

Copy of the order be given dasti to the parties, as prayed.