(1966) 08 CAL CK 0025

In the Calcutta High Court

Case No : Matter No. 13 of 1966

Jay Engineering Works Ltd. APPELLANT

Vs

Second Industrial Tribunal of West Bengal RESPONDENT

Date of Decision : 02-08-1966

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 19, 19(2), 19(3), 19(6)

Citation : (1966) 2 ILR (Cal) 561

Hon'ble Judges : B.C. Mitra, J

Bench : Single Bench

Advocate : Subimal C. Roy, for the Appellant;P.P. Ghose, for the Respondent

Judgement

B.C. Mitra, J.—By an order dated December 16, 1963, the Government of West Bengal (Respondent No. 5) referred to the First Industrial Tribunal, West Bengal, u/s 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), for adjudication an industrial dispute between the Jay Engineering Works Ltd., 183A, Prince Anwar Shah Road, Dhakuria, Calcutta-31 and the Jay Engineering Works Ltd., Roynagar, Bansdroni, P.O. Naktala, Dist. 24-Parganas, on the one hand and their workmen represented by two unions, namely, Jay Engineering Workers'' Union, 392, Prince Anwar Shah Road, Calcutta-31 and Jay Engineering Employees Union, 35B, Nirmal Chandra Street, Calcutta-13, on the other hand. Several issues were framed for such adjudication and these issues were as follows:

(1) Profit sharing bonus for 1962-63.

(2) Gratuity.

(3) Ad-hoc increase in wages.

(4) Dearness Allowance to Sales Staff.

(5) Standardisation of production earnings.

(6) Whether wages on production to be paid for overtime work.

The Petitioner (a company incorporated under the Indian Companies Act), filed its written statement before the Tribunal and so did the two workers'' unions mentioned above. Thereafter the Presiding Officer of the Tribunal, Mr. Renupada Mukherjee, retired. On such retirement, the Respondent No. 5, by an order dated July 24, 1965, in exercise of its powers u/s 33B of the Act, withdrew the reference from the First Industrial Tribunal and transferred the same to the Second Industrial Tribunal (the Respondent No. 1 herein). The Respondent No. 1 tried a preliminary issue on the scope and ambit of the reference. Oral evidence was adduced on behalf of the Petitioner and the Respondents Nos. 3 and 4.

2. By an order dated October 30, 1965, the Respondent No. 1 held that the Petitioner''s head office, factories, sales zonal offices, training schools and all other places where the Petitioner employed persons, constituted one single establishment and that all the employees of the Petitioner at all the said places were covered by the said order of reference. It was further held that the said issues Nos. 1, 2 and 3 cover the claim of zonal sales office and sales organisations as a whole and any award that would be made, would cover the employees thereof. Issue No. 4, it was held, related to the employee''s of sales staff as a whole, including the employees of the zonal sales office and the sales organisation supervised by it. Regarding issues Nos. 5 and 6 it was held, that there was no controversy. The Petitioner feeling aggrieved by this award on the preliminary issue, moved a writ petition and obtained a rule nisi for appropriate writs and orders for quashing or setting aside the said award, prohibiting the Respondents from continuing the proceedings on the said order or reference and also directing the Respondent No. 1 and Respondent No. 5 to forbear from giving any effect to the said order of reference.

3. Mr. Subimal G. Roy, Learned Counsel for the Petitioner, raised four points in support of this rule. These points are:

(i) The order dated July 24, 1965, whereby the Respondent No. 5 withdrew the reference from the First Industrial Tribunal and transferred the same to the Respondent No. 1 is illegal and void. This order could not be made u/s 33B of the Act as the vacancy was caused by the retirement of the Presiding Officer. This vacancy should have been filled up u/s 8 of the Act which clearly provided for filling up of vacancies.

(ii) By holding that all the different places of business of the Petitioner formed one establishment and the order of reference covered all the workmen at the different establishments of the Petitioner, the Respondent No. 1 acted in excess of its jurisdiction, as the order of reference clearly and categorically specified that the dispute referred to was a dispute between the Jay Engineering Works Ltd., 183A, Prince Anwar Shah Road, Dhakuria and the Jay Engineering Works Ltd., Roynagar, Bansdroni, Naktala and their workmen. The dispute referred to, therefore, was limited to the dispute between the two definite establishments of the Petitioner and the workmen employed in these establishments. Respondent No. 1 was bound by the terms of reference and had acted in excess of its jurisdiction, by holding that an award made by it on the issues mentioned in the order of reference would cover all the employees at the different establishments of the Petitioner,

(iii) The order made by the Respondent No. 1 on October 30, 1965 is bad and illegal as it is beyond the terms of the reference.

(iv) The order of reference is bad as several issues have been framed some of which were the subject-matter of a settlement between the Petitioner and its employees, which was arrived at on September 25, 1959 and which was incorporated in an award. The employees of the Petitioner were represented by the National Union of Mercantile Employees at this settlement. This settlement was still valid and binding on the employees of the Petitioner and therefore, there could be no award on some of the issues framed by the Respondent No. 5 by the order of reference. Issue No. 4 relates to the dearness allowance of sales staff and this particular issue was the subject-matter of the said settlement.

4. In support of the first contention, Mr. Roy argued that Section 33B of the Act required that the Government should state in writing the reasons for withdrawing a proceeding from a Labour Court, Tribunal or National Tribunal and thereafter make an order of transfer. In this case, Mr. Roy argued, no reasons have been stated by the State Government, beyond a statement in the recital that the Presiding Officer of the First Industrial Tribunal had retired. This statement, it was argued, was not a statement of the reason for making an order of transfer in compliance with Section 33B of the Act. Mr. Roy contended that the Respondent No. 5 should have stated in the order the difficulties, if any, in filling up the vacancy by an order u/s 8 of the Act. The statute clearly provided for filling up a vacancy; no reasons have been set out as to why an order filling up the vacancy u/s 8 of the Act could not be made. A bare statement of the retirement of the Presiding Officer, it was argued was not a sufficient statement of the reasons required by Section 33B of the Act.

5. In support of this contention, Mr. Roy relied upon the decision of the Supreme Court in The Associated Electrical Industries, (India) (Private) Ltd. v. Its Workmen (1961) 2 Lab. L.J. 122. In that case also an order of withdrawal was made u/s 33B of the Act and the only reason mentioned in the order was that it was expedient to withdraw the reference from one Tribunal and transfer it to another. It was held that this bare statement made in the order of transfer did not amount to a statement of reasons as required by Section 33B(1). It was further held that the requirement about the statement of the reasons must be complied with, both in substance and in letter and that to say, that it was expedient to withdraw a reference from one Tribunal and transfer it to another, was not giving any reason as required by the section. This decision, to my mind, does not assist the Petitioner, as in this case a reason has been stated, namely, that the Presiding Officer of the Tribunal has retired. It cannot be said that no

reasons have been stated at all, as in the case before the Supreme Court mentioned above. As to whether the reason stated is a sufficient reason or a valid reason, is a different question altogether. The Presiding Officer of the Tribunal having retired, the Tribunal ceased to function and therefore an order of transfer was not altogether unjustified.

6. The next case relied upon by Mr. Roy was a decision of this Court in Shree Shew Sakti Oil Mills Ltd. Vs. Judge, Second Industrial Tribunal and Others, . In that case it was held that reasons had to be stated so that they might be known to the parties concerned. In that case also the only statement in the order of transfer was that it was expedient, that the reference should be withdrawn from one Tribunal and referred to another Tribunal. It was held that the ground of expediency must be disclosed and unless disclosed it would not satisfy the requirement of Section 33B. This decision does not help the Petitioner as there was no statement of the reasons at all.

7. Mr. S.K. Acharya on the other hand contended that the order of withdrawal and transfer of the reference sufficiently complied with Section 33B of the Act. He argued that it was clearly stated that the withdrawal and transfer was necessitated by the retirement of the Presiding Officer; and this, Mr. Acharya submitted, was a sufficient statement of the reasons u/s 33B(1) for the order of withdrawal and transfer. In support of this contention Mr. Acharya relied upon the decision of the Supreme Court in Bengal Chemical and Pharmaceutical Works Ltd., Calcutta Vs. Their Workmen, . In that case an order of withdrawal of reference was made by the State Government from the Second Industrial Tribunal, to the Fifth Industrial Tribunal and it was held that the State Government acted well within its powers in transferring the dispute pending before the Second Industrial Tribunal to the Fifth Industrial Tribunal. The question before the Supreme Court was whether such an order of transfer could be made in respect of proceedings pending in a Tribunal before March 10, 1957, as by the amendment of the Act in 1957 it was provided that s, 2 of the Act should be deemed to have come into force on March 10, 1957; therefore the main question before the Supreme Court was whether an order of transfer could be made in respect of proceedings pending before a Tribunal constituted before March 10, 1957. This decision, therefore, does not help Mr. Acharya.

8. Mr. Acharya, however, relied upon a decision of this Court in Wolverhampton Iron and Steel Company v. State of West Bengal (1962) 2 Lab. L.J. 72. In that case the Labour Court before which a dispute was pending was abolished and thereafter a second order of reference was made to another Tribunal. It was held that the abolition of Labour Court left the dispute in question undisposed of and there was no other Court or Tribunal which could deal with the dispute which had been referred to that Court. It was, therefore, held that the second order of reference to another Tribunal was a valid order.

9. In my opinion the order dated July 24, 1965, cannot be successfully challenged on the ground that there is no statements of the reasons for the

withdrawal and transfer of the reference from the First Industrial Tribunal to the Second Industrial Tribunal. The statement in the order that the Presiding Officer of the First Industrial Tribunal had retired, is sufficient compliance with Section 33B(1) of the Act. The first contention of Mr. Roy, therefore, fails and is accordingly rejected.

10. The next contention of Mr. Roy was that the order of reference made it clear that the dispute was between the two units of the Petitioner mentioned therein and their workmen. It was not a reference of a dispute between all the different units of the Petitioner and of the workmen employed at all these different units''. These different units of the Petitioner have been set out under para. 1 of the petition. It appears that the Petitioner has five different units at different places. The allegations in para. 1 of the petition regarding the five separate units of the Petitioner, Mr. Roy argued, had been admitted in the affidavit-in-opposition affirmed by Ramen Sen Gupta on March 23, 1966, on behalf of Respondent No. 2. In para. 1 of this affidavit it is stated that the allegations in para. 1 of the petition are substantially correct. Mr. Roy, therefore, argued that it was not open to the Respondents Nos. 2 and 3 to question or challenge the separate indentity of the different units of the Petitioner. Keeping this in view, Mr. Roy argued, the order of reference dated December 16, 1963, must be construed to mean that the dispute referred to was a dispute involving the workmen of the two particular units of the Petitioner mentioned in the said order, namely, the unit at 183A, Prince Anwar Shah Road and the unit at Roynagar, Bansdroni. The Respondent No. 5 was fully aware of the separate identity of the different units of the Petitioner and it was for that reason, Mr. Roy argued, that the Respondent No. 5 had specified the said two units and not the others.

11. It was next argued that in the impugned order the Respondent No. 1 had held that all the employees of the Petitioner at the five different units mentioned in para. 1 of the petition were covered by the reference and the award to be made on the reference should cover all such employees. By making this order, Mr. Roy argued, the Respondent No. 1 had clearly acted in excess of its jurisdiction. It was not open to the Respondent No. 1 to make impugned order dated October 30, 1965, whereby it brought within the ambit of the reference all the workmen of the Petitioner in the different units. The jurisdiction of the Respondent No. 1, it was argued, was confined to the two units of the Petitioner mentioned in the order of reference.

12. In support of this contention Mr. Roy relied upon the decision of the Supreme Court in The Associated Cement Companies Limited, Chaibassa Cement Works, Jhinkpani Vs. Their Workmen, . In that case the Supreme Court was considering the question of lay-off compensation u/s 25E read with Section 25C of the Act. The company had a number of cement factories in different states of the Indian Union as also in Pakistan. The question was whether the company had only one establishment or several establishments at the different units at which the company carried on its business. It was held that if in their true relation these

different units constituted one integrated whole, the establishment was one; but if, on the contrary, they did not constitute one integrated whole, each unit was a separate unit. It was further held in that case that there was unity of ownership, unity of management, supervision and control, unity of finance and employment, unity of labour and conditions of service of workmen, functional integrality, general unity of purpose and geographical proximity and it was, there fore, held that the different units of the company constituted one establishment. To my mind, however, this case is not of much assistance to Mr. Roy, as the question for consideration was lay-off compensation u/s 25E head with Section 25C of the Act and it was in that context that it was held that the different units constituted one establishment.

13. Mr. Roy next relied upon another decision of the Supreme Court in Indian Cable Company Ltd. v. Its Workmen (1962) 1 Lab. L.J. 409, in which a dispute was raised by six retrenched workmen on the ground that Section 25C of the Industrial Disputes Act had not been complied with by taking all the branches of the company as one unit. The Tribunal had held that the company had its registered office at Calcutta and controlled all the branches and employed the workmen and also dismissed them, that the six retrenched workmen were appointed by the company and also that the branches did not prepare their own balance-sheet and on these facts the Tribunal has held that the branches had no separate existence. But this decision was set aside by the Supreme Court and it was held that the company might have its own consolidated annual balance-sheet as required by the Companies Act, but where the company had a head office at one place and branches in other places, it would be wholly erroneous to hold that the different units constituted one establishment. This decision again is not of much assistance to the Petitioner as the question whether the different units of a company constituted one establishment, was considered in the context of the question of validity of retrenchment of workers having regard to the provisions in Section 25C of the Act.

14. Appearing for the Respondent No. 5, Mr. P.P. Ghose submitted that it was true that two units of the Petitioner had been mentioned in the order of reference, but that the mention of the two units should be treated as a surplusage. He argued that it was not necessary for the Respondent No. 5 to include the two different units of the Petitioner in the order of reference and that although two units have been mentioned, it should be treated as one unit; and therefore, all the workmen of the Petitioner at the different units should be held to be covered by the order of reference. I cannot accept this contention of Mr. Ghose as the Respondent No. 5 had included only two units of the Petitioner in the order of reference knowing full well that the Petitioner had several units. The order of reference must be given its plain meaning and it is not open to the Tribunal to construe the order of reference so as to include all the different units of the Petitioner within the scope of the reference.

15. Mr. Acharya, on the other hand, argued that the Respondent No. 1 was right

in holding that all the workmen of the Petitioner, in the several units mentioned above, are covered by the order of reference. He argued that although only two units of the Petitioner were mentioned in the order, a charter of demands was submitted by the workmen of the Zonal Sales Office on March 20, 1963 and this charter of demands included the issues under reference. He further argued that a charter of demands was also submitted on November 18, 1963, by the Respondent No. 3 on behalf of the workmen of the Petitioner and therefore, the Tribunal was right in holding that all the workmen of the Petitioner were covered by the order of reference. In support of this contention Mr. Acharya relied upon the decision of the Supreme Court in Management of Wenger and Co. Vs. Their Workmen, . In that case the question whether a restaurant and a wine shop constituted separate units or one establishment was considered. It was held that such a question should be decided on the facts of each case. It was further held that the test of functional integrality or the test whether one unit could exist without the other, though important in some case, could not be stressed in every case without having regard to the relevant facts of that case and therefore, it could not be said that the absence of functional integrality and the fact that the two units could exist, one without the other, necessarily showed that where they existed, they were separate units and did not constitute one establishment. In that case also, it was found that there was unity of ownership, unity of finance, unity of management and unity of labour and also that employees of the restaurant could be transferred to the wine shop; and on these facts, it was held that the Tribunal was not in error in holding that the wine shop and the restaurant formed part of the same industrial establishment. The principal question in that case, however, was a claim for wage structure and the provision for increment in scales, provision for provident fund, gratuity and bonus. It was in this context that the Supreme Court considered the question whether separate units under the same management should be treated as one establishment. The question before me in the instant case, however, is whether the order of reference which specifies two particular units of the Petitioner covers within its ambit all the workmen of the other units not specified in the order of reference and therefore the decision of the Supreme Court in the above case is of no assistance to Mr. Acharya.

16. Mr. Acharya next argued that this Court, in exercise of the Writ jurisdiction, should not revise or set aside the order of the Tribunal merely because it had come to a wrong decision on the materials placed before it. He argued that this Court was not sitting in appeal over the order of the Tribunal and therefore, should not review the findings of fact arrived at by the Respondent No. 1 even though such findings might be erroneous. It was further argued that even if the findings of the Tribunal was erroneous, because of a wrong appreciation of evidence, or because the Tribunal had drawn a wrong inference, such an error could not be corrected by this Court in exercise of its Writ jurisdiction. In support of this contention, Mr. Acharya relied upon the decisions of the Supreme Court in Hari Vishnu Kamath Vs. Syed Ahmad Ishaque and Others, , Nagendra Nath Bora

and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others, , and Kaushalya Devi and Others Vs. Bachittar Singh and Others, .

17. The question before me, however, is not whether the Tribunal has come to a wrong decision, or has committed an error in appreciation of evidence, or has drawn a wrong inference on the materials; but the question is if the Tribunal has acted in excess of its jurisdiction. The jurisdiction of the Respondent No. 1 has been created by the order of reference and it is that order which has got to be scrutinised to see if the Tribunal has acted in excess of its jurisdiction. The order of reference has specified the parties whose dispute was the subject-matter of the reference and these parties were the two units of the Petitioner at 183A, Prince Anwar Shah Road and at Roynagar, Bansdroni and their workmen. It was the dispute between these two units of the Petitioner as the employer and the workmen of these two units only which was the subject-matter of the reference. The order of reference is binding on the Respondent No. 1 and it was, therefore, not open to it to enlarge the scope of the reference by construing the order of reference to include all the workmen of the different units of the Petitioner. The Respondent No. 5 was, without a doubt, aware of the different units of the Petitioner. The order of reference itself makes it clear that only two units of the Petitioner have been mentioned. If it was the intention of the Respondent No. 5 to include all the workmen of the Petitioner at its different unit, the two particular units located at the two addresses would not have been mentioned in the order. In construing the Order of reference to include all the workmen of the Petitioner at its different units, the Respondent No. 1, in my view, has acted in excess of the jurisdiction conferred upon it by the order of reference.

18. The next contention of Mr. Roy was that the order of reference was bad as some of the issues framed in that order, were the subject-matter of a subsisting settlement between the Petitioner and its employees. It was argued that this settlement was arrived at between the Petitioner and its employees represented by the National Union of Mercantile Employees. Issue No. 4 in the order of reference relates to the dearness allowance to sales staff and this issue Mr. Roy argued, was the subject-matter of the settlement which was incorporated in the award of the Fifth Industrial Tribunal dated September 26, 1959. Clause (a) of the terms of settlement provided that the Petitioner did not agree to grant separate dearness allowance to its employees of the sales staff. This settlement, Mr. Roy argued, was still subsisting and therefore, the order of reference was bad as it sought to raise an issue which was part of the said valid and subsisting settlement.

19. Mr. Roy next argued that u/s 19(2) of the Act the settlement remained binding for such period as was agreed upon between the parties and if no period was agreed upon, for a period of six months and was to continue to be binding after the expiry of the period of six months, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement was given by one of the parties to the other. In this case, Mr. Roy argued, no

period was fixed during which the settlement was to be binding on the parties and no notice was given either by the workmen or by the Petitioner of an intention to terminate the settlement; and therefore, the settlement still continued to be binding on the parties. u/s 19(3), Mr. Roy argued, the award was to remain in operation for the period of one year and under Sub-section (6) of Section 19, the award was to continue to bind the parties until the expiry of two months from the date on which a notice was given by either party bound by the award. Mr. Roy argued that no such notice as contemplated by Section 19(6) was also given. Mr. Roy further argued that the question of dearness allowance which was covered by issue No. 4 of the order of reference was covered also by Clause (4) of the said settlement by which the union agreed not to press the claim for separate dearness allowance for the employees. It was argued that as part at least of the dispute which was sought to be referred to the Respondent No. 1 was fully covered by the said settlement, reference of the same or similar question was illegal. Such a reference could be made, Mr. Roy argued, if the settlement was validly terminated by notice as provided by Sub-sections (2) and (6) of Section 19 of the Act.

20. Mr. Roy next argued that it was claimed on behalf of the workmen that notice of termination of the settlement was given by the letter dated August 17, 1962, from the Secretary of the Jay Engineering Sales Unit and the National Union of Mercantile Employees to the Circle Sales Manager, Jay Engineering Works Ltd. This letter is annexed to the affidavit-in-opposition affirmed by Ramen Sen Gupta on March 23, 1966, It was stated in this letter that the workmen of the company would thenceforth be represented by the Respondent No. 3 and also that the workmen did not want the terms of settlement to continue. Mr. Roy argued that it might be contended on behalf of the workmen that this was a sufficient notice of termination of the settlement in compliance with Section 19 of the Act. It was argued that this was not a valid notice, as it was not a notice by the Respondent No. 3 who, it was alleged, represented the workmen; but it was notice by the National Union of Mercantile Employees, which, according to this very letter, had ceased to represent the workmen. Further, it was argued, that no notice was given to the other parties to the settlement, but a notice was given only to the Sales Manager of the Petitioner; this, it was submitted by Mr. Roy, was not enough for a valid termination of the settlement.

21. Mr. Acharya, on the other hand, submitted that the settlement had been validly terminated and had ceased to be a binding settlement. He argued that it was well-settled that no particular form of notice was necessary for terminating a settlement and therefore, the notice of termination given by the said letter dated August 17, 1962, was sufficient to terminate the settlement. In support of this contention Mr. Acharya relied upon a decision of the Labour Appellate Tribunal reported in the case of Bhutoria Jute Mills, Howrah v. Workmen of 101 Jute Mills in West Bengal (1956) Lab. A.C. 719, in which it was held that a notice u/s 19(6) of the Act might or might not be in writing and might be communicated in any manner provided the party for whom it was intended had sufficient knowledge of

the intention to terminate the agreement. Reliance was next placed by Mr. Acharya on another decision of the Labour Appellate Tribunal reported in the case of Workmen Employed by The New Standard Engineering Company Ltd. v. The New Standard Engineering Company Ltd. (1957) Lab. A.C. 226, in which it was held that when parties went up to the Government and asked for a reference, there was a tacit representation by them that the existing award had been legally terminated. Reliance was next placed on a decision of Sinha, J. (as he then was) in The Calcutta Tramways Company Ltd. v. Special Industrial Tribunal (1957) Lab. A.C. 226 (13) Unreported decision of Sinha, J. (as he then was) in Matter No. 46 of 1959. In that case also it was held that a representation was made to the Government by the workmen that a new adjudication was necessary and that such representation was a sufficient notice in terms of Section 19(6) of the Act by the workmen to the company and also to the Government. It was further held that want of a formal notice was no bar to the order of reference.

22. I should note, however, that in the impugned order it has been stated that the workmen of the Zonal Sales Office submitted a charter of demands on March 20, 1963. Then again the Respondent No. 3 also submitted a charter of demands on behalf of the employees of the Petitioner on November 18, 1963; and in Clause (7) of this charter of demands, the claim of the sales staff had been reiterated. It was on this charter of demands that there was a conciliation proceeding, after which the order of reference dated December 16, 1963, was made. It was abundantly clear to the Petitioner at any rate, that the workmen did not intend the terms of settlement to be binding on them any longer. The submission of the charter of demands by itself was sufficient notice of termination of the settlement. On this question reference should also be made to the decision of the Supreme Court in Cochin Stale Power, Light Corporation Ltd. v. Its Workmen (1964) 2 Lab. L.J. 100. In that case after the expiry of the period settlement by efflux of time, a charter of demands was submitted, in which it was stated that the union had resolved to terminate the settlement. It was held that this statement in the charter of demands was sufficient notice as required u/s 19(2) of the Act and therefore, the reference in regard to items covered by the settlement must be held to be valid. It was further held that there was no prescribed form for terminating settlements and all that was to be seen was whether the provisions of Section 19(2) of the Act were complied with and in substance a notice was given as required thereunder.

23. Relying upon the decisions mentioned above, Mr. Acharya contended that there was sufficient: notice of termination of the settlement as required by Section 19 of the Act. Apart from the said letter dated August 17, 1962, charters of demands had been submitted on behalf of the workmen which included matters covered by the settlement. Thereafter, there were conciliation proceedings based on the charter of demands and these proceedings were followed by the order of reference. It was, therefore, argued by Mr. Acharya that the order of reference could not be held to be invalid on the ground that issues were framed regarding matters which were covered by the settlement.

24. In my opinion, this contention of Mr. Acharya must prevail. It is now well-settled that no particular form of notice is necessary for terminating a settlement u/s 19 of the Act. Knowledge of the fact that the workmen do not wish the settlement to continue to bind them is sufficient compliance with the requirement of Section 19 of the Act. In that view of the matter, Mr. Roy''s contention that the order of reference was bad as issues were framed covering matters which were the-subject-matter of a settlement between the Petitioner and its workmen, cannot be accepted.

25. As I have already held that the Respondent No. 1 acted in excess of its jurisdiction in making the order dated October 30, 1965, whereby it held that all the workmen of the Petitioner in its different units were covered by the order of reference, this application must succeed in part. The order of reference u/s 10 of the Act dated December 16, 1963, cannot, however, be held to be illegal or invalid on any of the grounds urged on behalf of the Petitioner. The Rule, therefore, is made absolute in part. Let a Writ of certiorari issue quashing the order No. 38 dated October 30, 1965, in case No. VIII-197/65. The Respondent No. 1 is directed to act according to law. Each party to pay its Own costs.

