

(1966) 12 PAT CK 0012
In the Patna High Court

Kamalapati Ram and Co. and Others	APPELLANT
Vs	
Workmen in Mica Industry and Others	RESPONDENT

Date of Decision : 02-12-1966

Acts Referred:

Constitution of India, 1950 — Article 227
Industrial Disputes Act, 1947 — Section 10, 11

Citation : (1968) 1 LLJ 702

Hon'ble Judges : R.L. Narasimham, C.J;K.B.N. Singh, J

Bench : Division Bench

Judgement

1. This is an application under Article 227 of the Constitution to quash the order of the presiding officer, industrial tribunal, Bihar, calling upon the employer to produce the various documents called for by the work-men, namely, the attendance registers, payment registers to all categories of workmen and their balance sheets for the years 1963, 1964 and 1965. This order was passed on 10 October 1966 (presumably a mistake for 1 October 1966). Against this order a civil revision and an application under Article 227 (Civil Writ Jurisdiction Case No. 737 of 1966) were filed before this Court by the aggrieved party which were disposed of by a Bench of this Court on 2 December 1986. The Bench held that as regards production, discovery and inspection of documents the provisions of the CPC would apply in view of Section 11(3)(b) of the Industrial Disputes Act and also referred to a decision of the Punjab High Court to that effect. The Bench then passed the following orders:

The tribunal may hear parties on this point and insist on proper affidavits being filed by parties regarding the relevancy of these documents before the petitioners are called open to produce the same. We are sure the tribunal will follow the law on the subject as laid down by the various High Courts.

2. This order was passed on 2 December 1981 and presumably the attention of the chairman of the tribunal was not invited to this order when the impugned order was passed on 7 December 1963. Following our own previous decision,

therefore, we quash his order dated 1 October 1966 and 7 December 1966, and direct him to follow the provisions of law regarding discovery, production and inspection of documents as laid down in our order dated 2 December 1966 in Civil Writ Jurisdiction Case No. 737 of 1966. No costs.

3. Order, dated 2 December 1966, in civil Writ Jurisdiction Case No. 737 of 1966 and Civil Revision No. 1488 of 1966 between Bihar Mica Exporters' Association and others and Their Workmen.

* * * 4. In Civil Writ Jurisdiction Case No. 737 of 1966 the main point urged is that the State Government had no Jurisdiction to make a reference to the tribunal u/s 10(1) of the Industrial Disputes Act since it is a matter covered by the Standing Orders Act. This is, however, a matter which should be taken up before the tribunal and disposed of by it either as a separate preliminary issue, if the law on the subject is quite clear or along with other issues if the tribunal considers the latter procedure to be more convenient to all concerned.

5. In Civil Revision No. 1488 of 1966 the main point urged is that the tribunal should not have called upon the petitioners to file all the papers and registers called for without first examining whether they are relevant, specially at the instance of a union which is not a party to the reference. As regards the power of the Industrial court in respect of production, discovery and inspection of documents by virtue of Section 11(3) of the Industrial Disputes Act, in the case of Shambu Nath and Sons Ltd. Vs. Additional Industrial Tribunal and Another, the Punjab High Court has taken the view that in these matters the provisions of Order XI, Rules 15 and 18, should be followed and there are also decisions of other High Courts to the same effect. The tribunal may hear the parties on this point and insist on proper affidavits being filed by parties regarding the relevancy of these documents before the petitioners are called upon to produce the same. We are sure the tribunal will follow the law on the subject as laid down by the various High Courts.

6. The writ petition and the civil revision are disposed of accordingly.