

(2009) 05 AHC CK 0663
In the Allahabad High Court

National Winder	Vs	APPELLANT
State of U.P.and Others		RESPONDENT

Date of Decision : 26-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0663

Hon'ble Judges : Arun Tandon, J

Final Decision : Disposed Of

Judgement

Arun Tandon, J.

This writ petition is directed against a letter of the Deputy Labour Commissioner, Varanasi dated 23.03.2009 whereby he has informed the District Magistrate, Chandauli that three recovery certificates with reference to money due under various statutory provisions to the workmen of the petitioner's unit have been issued from time to time. The employers are claiming settlement outside the proceedings and, therefore, they seek withdrawal of the aforesaid recovery certificates. It has been that in case settlement has been arrived at between the parties outside the proceedings, the confirmation thereof has to be communicated in writing by the workmen concerned to the office of the District Magistrate as well as to the office of the Deputy Labour Commissioner or else the entire amount as per the recovery certificate is to be deposited by the employers. It is only in these two circumstances that the recovery certificates will become redundant. The District Magistrate has been asked to take appropriate action at his end.

Counsel for the petitioner contends that such settlement has been arrived at outside the proceedings and therefore, no coercive action is required to be taken in terms of the recovery certificates. They seek quashing of the letter of the Deputy Labour Commissioner, referred to above.

I have heard counsel for the parties and have gone through the records of the writ petition.

In my opinion the letter of the Deputy Labour Commissioner has only stated that legal and factual position with reference to the recovery proceedings initiated. It is for the writ petitioner to satisfy the authority issuing the recovery certificate to his satisfaction that such settlement is a genuine settlement. The person in whose favour recovery was to be effected i.e. the workmen have been actually paid their lawful dues or agreed to be paid by the employer or else the amount has to be deposited. It has rightly been held that the recovery certificates will become redundant only on the happening of the said situation.

I find no error in the letter of the Deputy Labour Commissioner which may warrant any interference under Article 226 of the Constitution of India.

However this order shall not prejudice the rights of the writ petitioner to produce such evidence as may be advised, before the Deputy Labour Commissioner as well as before the District Magistrate for the purposes of establishing the genuineness of the settlement with the workmen as claimed before this Court. The matter needs to be examined by the authorities themselves, at the first instance.

Consequently the writ petition is disposed of subject to the observations made herein above.