
(2001) 04 RAJ CK 0100

In the Rajasthan High Court

Case No : Civil Special Appeal No. 901 of 1999

Rajasthan State Mines and Mineral Karamchari Sangh (BMS),
Udaipur

APPELLANT

Vs

Rajasthan State Mines and Mineral Ltd. (A Govt. of Rajasthan
Enterprise), Jhamarkotra and anr

RESPONDENT

Date of Decision : 03-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 RLW 1712

Hon'ble Judges : H.R. Panwar, J;B.J. Shethna, J

Bench : Division Bench

Advocate : M. Mridul, for the Appellant; M.R. Singhvi and M.S. Singhvi, for the Respondent

Final Decision : Dismissed

Judgement

Shethna, J.

(1) Against the judgment dated 18.5.99 passed by the learned Single Judge dismissing the writ petition No. 981/99 filed by the petitioner-Sangh has preferred this Special Appeal.

(2). It was vehemently submitted by Mr. M. Mridul, Senior Advocate for original petitioner that the learned Single Judge has committed a grave error in dismissing the writ petition only on the ground of alternative remedy. He submits that before Tribunal, it will take at least 10 years for finally adjudicating the matter. He, therefore, submits that this Court should not have dismissed the appeal on the ground of alternative remedy. In support of his contention, learned counsel for the petitioner, placed reliance on a decision of Hon'ble Supreme Court in the case of K. Venkatachalam vs. A. Swamickan and another (1). As against that learned counsel Mr. M.R. Singhvi appearing on behalf of respondent No. 1 Caveator submitted that when there is an alternative and efficacious remedy available to the petitioner and that the learned Single Judge though it fit

not to entertain the petition on this ground then certainly this Court will not entertain such petition in view of the Full Bench decision of this Court in case of *Gopilal Teli vs. State of Rajasthan and Others* (2).

(3). With utmost respect to Mr. Mridul, Sr. Advocate for the petitioner, the judgment of Hon''ble Supreme Court in case of *K. Venkatachalam* (supra) has no application to the facts of the present case. If the Hon''ble Supreme Court has rendered judgment in the matter which is arising out of election process, whereas, this matter is arising out of Industrial Dispute between the parties. It can be seen operative portion of the judgment passed by the learned Single Judge that the learned Single Judge has refused to interfere and exercised his extra ordinary jurisdiction under Article 226 of the Constitution of India on the ground of alternative remedy available to the petitioner before the Industrial Tribunal. In support of his conclusion of the learned Single Judge relied upon the judgment of Hon''ble Supreme Court in *Basant Kumar Sarkar and others vs. Eagle Rolling Mills Ltd. and others* (3). This view taken by the Hon''ble Supreme Court way back in the year 1964 is consistently followed by this Court till today. In its latest judgment, Hon''ble Supreme Court in *Mayurakshi Cotton Mills and others vs. Panchra Mayurakshi Cotton Mills Employees' Union and others* (4), has specifically held that whether a settlement was fair or unfair or valid cannot be gone into decided by the Court in its jurisdiction. Such question deserves to be referred to the industrial Tribunal only. We are found with the decision of Hon''ble Supreme Court.

(4). Having carefully gone through the judgment and order passed by the learned Single Judge and the view taken by Hon''ble Supreme Court in dismissing the writ petition on the ground of alternative remedy, we do not see any reason in this appeal.

(5). In view of the aforesaid discussion, the special appeal is dismissed.