

(1971) 03 PAT CK 0002

In the Patna High Court

Sureshwar Narain Srivastava

APPELLANT

Vs

Government of Bihar and Another

RESPONDENT

Date of Decision : 26-03-1971

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 12

Citation : (1971) 4 PLJR 395

Hon'ble Judges : U.N. Sinha, C.J;K.B.N. Singh, J

Bench : Division Bench

Judgement

1. The petitioner has applied under Articles 226 and 227 of the Constitution of India, praying that an order passed by the State Government refusing to refer an alleged industrial dispute be set aside. That the State Government have refused to refer the dispute is to be obtained from a communication incorporated in Annexure 7, dated the 9th March, 1968. This communication stated that on the question of the dispute of the persons named in Annexure 7, the State Government had come to the decision that the dispute was not fit for reference. One of the persons who had raised the dispute mentioned in Annexure 7 was Sureshwar Narayan, who is the present petitioner. The facts and circumstances in which a dispute is said to have arisen have been enumerated in the writ application in some details. It is stated in paragraph 17 that on the representation made by the petitioner, the Assistant Labour Commissioner, Muzaffarpur, had started a conciliation proceeding.

2. Although, it has not been specifically mentioned in the writ application that the conciliation proceeding had failed and the Conciliation Officer had sent a report to that effect it must be held inferentially that that happened as the State Government had refused to refer the dispute under the Industrial Disputes Act, purporting to act u/s 12(5) thereof. The question, therefore, is whether the order passed by the State Government is one which fulfils the requirement of Section 12(5) or not. This question has been decided by the Supreme Court of India in more than one case and the learned Counsel for the petitioner has relied upon

the principle laid down by their Lordships of the Supreme Court in the case of Bombay Union of Journalists and Others Vs. The State of Bombay and Another, . From the principles laid down by the Supreme Court of India it may be held that in refusing to refer a dispute u/s 12(5) of the Act, the appropriate Government need not give "an elaborate order indicating exhaustively all the reasons that weighed in its mind in refusing to make a reference." But, in the same judgment their Lordships have stated that it is desirable that the party concerned should be "told clearly and precisely the reasons why no reference is made". In the present order of the State Government that we have before us, the order does not give any reasons for refusing to make the particular reference. The order is of the barest nature, stating that in the opinion of the State Government, the dispute was not fit for reference. The order does not indicate that the State Government had applied its mind to any of the factors in the case and so the order is clearly in contravention of the requirement of law. From the State Government's order, this Court is not in a position to conclude whether relevant matters had been taken into consideration by the State Government or not, or for the matter of that, this Court is not in a position to ascertain what matters, if any, in relation to the particular dispute the State Government had considered for concluding that the case was not fit for reference under the Industrial Disputes Act for adjudication. In such circumstances, we are of the opinion that the order of the State Government refusing to refer the case under the Industrial Disputes Act for adjudication must be quashed. It will be left to the State Government to proceed with the matter in accordance with law, as has been repeatedly laid down by the Supreme Court of India. The writ application is, therefore, allowed, but under the circumstances parties are directed to bear their own costs.