

18/96

13-9-96

D.B.

Not to go before
Hon. Shri. J. N. K. Jain
Hon. Shri. S. Shankhusingh.
आदेश पत्रक

FILED AT INDORE

L.P.A. - 155/96

मामला क्रमांक १५५/९६
Manager: - Kedia D. D. J. x chair man / President - State
विद्यमान Industrial Court.

आदेश हस्ताक्षर सहित

कार्यालयीन मामलों में सिविल रिजिस्ट्रार
के पदविवरण आदेश

9218/96

Presented by P. C. Chowdhary

on 12-10-96 at

Date for appearance before
the Addl. Registrar (J), to
note the result of checking

on 17-10-96 Date for
final hearing 17-10-96

Put up with
side P.C. Chowdhary
Addl. Registrar

Interlocutory Application No. 5281

U. Or / Sec

of stay of execution/substitution
legal representatives/grant of bail

represented by ...
for the applicant, petitioner, respondent
non-applicant or

with an urgent application, it be plac
before a Judge ...
Counsel be informed of the date.

17/10
Addl. Registrar

for the
Petitioner. Petition is checked. It
appears to be properly drawn up
and stamped, within time and is
accompanied with the necessary
documents. It be registered and
placed before the Court for order
in ...
court be sent for.

17-10-96

उच्च न्यायालय, मध्यप्रदेश, जबलपुर

मामला क्रमांक L.P.A. 155 /96 सन् 199

वादी पत्रक (पूर्वानुषंग)

हस्ताक्षर सहित आदेश

कार्यालयीन मामलों में डिप्टी रजिस्ट्रार
के अंतिम आदेश

28-10-96

Appellant by Shri A.M.Mathur with Shri Saran.

Respondents 5 and 6 by Shri K. Bhargava with Shri Bapat.

Counsel for the appellant has filed

T.A. 5361 /96 for amendment in the stay application.

proposed amendment appears to be formal in nature which would clarify the prayer. It is, therefore, allowed. Amendment be incorporated by tomorrow.

It appears that no copies have been supplied to respondent no. 4 the State of M.P. Respondents 7 to 20 are said to be proforma respondents as they were themselves petitioners along with the present appellant before learned Single Judge.

Now, copies be supplied to respondent no. 4 by tomorrow.

List on 1-11-1996 as agreed.

Registry to take proper steps for listing the case on the fixed date.

21.11.96
JUDGE

J. L. B.
JUDGE

Manager,
Simplex Engineering & Foundry Works Ltd.,
Unit-III, Tedesara, Rajnandgaon.

10. Manager,
Beekay Castings Ltd.,

Bhilai.

11. Manager, Beekay Engineering Corporation,
Bhilai.

12. Manager, Beekay Engineering Corporation,
Unit-II, Bhilai.

13. Manager, Bhilai Engineering Corporation,
Urla, Raipur.

14. Manager,
Bhilai Engineering Corporation,
Impex, Bhilai.

15. Manager, Bhilai Engineering Corporation,
Unit-II, Bhilai.

16. Manager, Bhilai Wires Ltd.,
Bhilai.

17. Manager, Chhatisgarh Distillery,
Kumhari, District Durg.

18. Manager, Vishwavishal Engineering Ltd.,
Bhilai.

19. Manager, Simplex Castings Ltd.,
Unit-I, Bhilai.

20. Manager, Simplex Castings Ltd., Urla,
Unit-II, Raipur.

.. Proforma Responden

LETTERS PATENT APPEAL UNDER CLAUSE X OF THE
LETTERS PATENT AGAINST ORDER DATED 27.9.96
OF THE HON'BLE SINGLE JUDGE, SH.N.K. JAIN, IN
W.P.No.1231/96

MAY IT PLEASE YOUR LORDSHIPS:

Being aggrieved by the order of the learned
Single Judge date 27.9.96 in Writ Petition No.1231/96
passed by the Hon'ble Shri Justice N.K.Jain, this L.P.
is filed. It may be submitted that respondents No.7
20 are only Proforma Respondents as they were parties
and no relief against them is claimed.



L.P.A.No. 155/96

BEFORE THE HON'BLE THE HIGH COURT OF M.P. INDORE BEN

AFFIXED AT INDORE



Manager,
Kedia Distillery,
Industrial Estate,
Nandini Road, Bhilai.

.. Appellant

Vs.

1. Chairman/President,
State Industrial Court, M.P. Indore.

2. Member Judge,
State Industrial Court, M.P. Indore,

3. Member Judge,
M.P. State Industrial Court,
Bench Raipur.

4. State Government of M.P.,
through Secretary,
Labour Department M.P.
Bhopal.

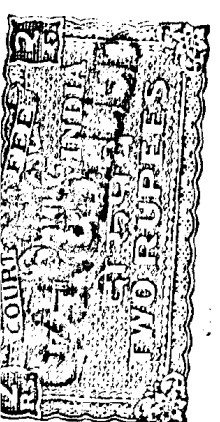
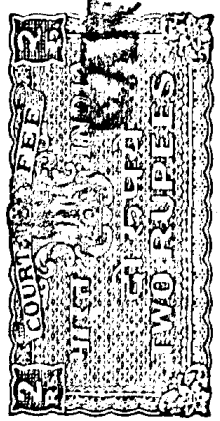
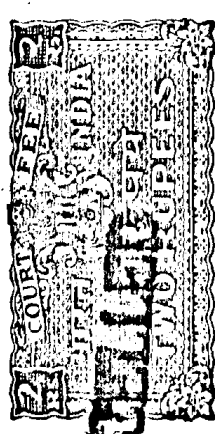
5. Pragati Steel Engineering Shramik Sangh,
Housing Board Colony,
Industrial Estate, Bhilai.

6. Chatisgarh Chemical Mill Mazdoor Sangh,
Hajnandgaon(M.P.)

.. Respondents

7. The Manager,
Simplex Engg. & Foundry Works Ltd.,
Unit-1, Bhilai.

8. Manager,
Simplex Engg. & Foundry Works Ltd.,
Bhilai.



SI-MC-27
LPUR-8
T INDORE

उच्च न्यायालय, मध्य प्रदेश, जबलपुर

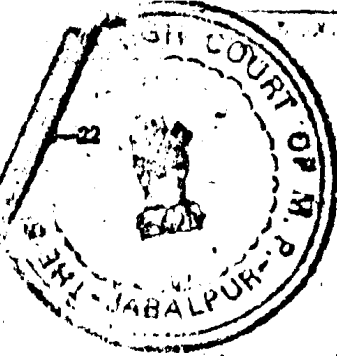
मामला क्रमांक L.P.A. 155/96 सन् 199

आदेश पत्रक (प्रातिनिधिक)

आदेश का दिनांक [तथा आदेश क्रमांक]	हस्ताक्षर सहित आदेश	कारवाही के मासिक मामलों में रिजिस्ट्री एवं के मासिक आदेश
	1-11-1996 Appellant by Shri A.M.Mathur with Shri V.Saran. Respondent no. 4 by Shri P.Mathur. Respondent no. 5 and 6 by Shri Bhargava with Shri Bapat. Counsel for respondents # 5 and 6 filed reply to the stay application. Shri Mathur is heard. It is 4.40 p.m. The arguments are likely to take some time. In view of the above, it is directed that the case be listed on 28th of Nov. 1996. Registry shall take steps for constituting Special Bench as directed by Honourable the Chief Justice. Meanwhile parties shall maintain status-quo stood today. C.c. today. <i>21.11.96</i> Judge.	1-11-96 <i>L. 9820-22</i> or dt. copy forwarded to No. 2, 3 & 4 for any necessary action. <i>D.R. Bhat</i>

RECEIVED
JABALPUR
11/11/96

18/11/96



उच्च न्यायालय, मध्य प्रदेश, जबलपुर

आदेश पत्रक

AFFIXED AT INDORE

मामला क्रमांक

L.P.A.No. 155/96 सन् १९९६

विषय

आदेश का
दिनांक आदेश
क्रमांक सहित

आदेश हस्ताक्षर सहित

कार्यालयीन मामलों में सिट्टी रविशंकर
के अन्तिम आदेश

Appellant by Shri Mathur with Shri Sharan and
Shri Rohit Arya.

Respondents 1 to 4 by Shri Piyush Mathur.

Respondents 5 & 6 by Shri Bhargava with Shri
Apat.

Nobody appears for respondents 7 to 20 as they are
formal parties in the case and no relief has been
sought against them.

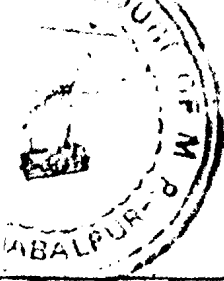
Shri Nadir, who appears for Metal & Engineering Workers'
Union, Bhilai, submits that he wants to make an application
for being made party in the case. He has already filed
such an application in L.P.A.No.163/96 which also arises
out of the same Judgment.

In view of above it is directed that the case be
listed in the second half of 6th December '96. It is
likely to continue on 9th as well. The Registry to take
steps for constitution of special Bench.

c.today

21/12/96
J U D G E

L. I.
J U D G E



आदेश पत्रक (पुनर्निर्णय)

द्वारा
किसी
के सहित

18/05/96

आदेश हस्ताक्षर सहित

आदेशपत्रक नामों में दिष्टी रजिस्ट्रार
के अतिरिक्त, आदेश

6.12.96.

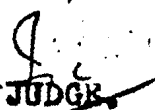
Appellant by Shri A.M.Mathur with Shri Saran
and Shri Rohit Aarya.

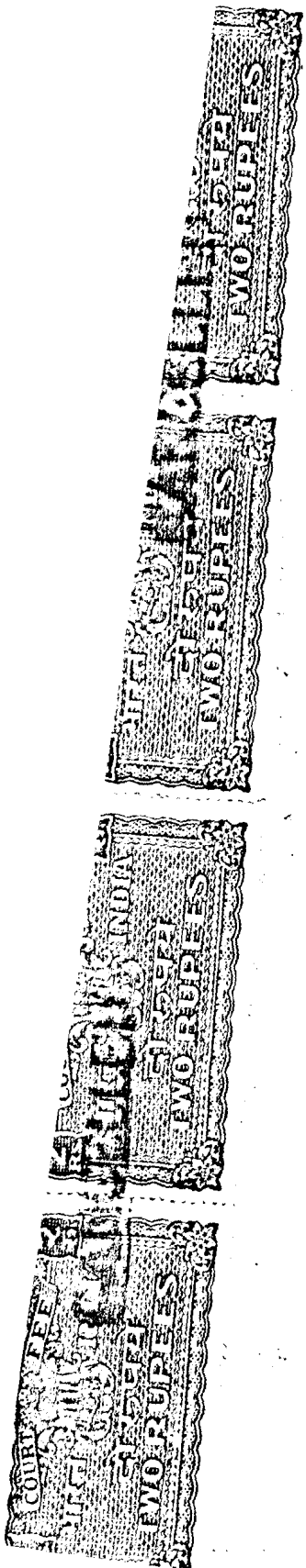
Respondent No.1 to 4 by Shri Piyush Mathur.

Respondents No.5 and 6 by Shri Bhargava with Shri
Bapat. No-body appears for Respondents No.7 to 20
~~XXXXXXXXXXXXXXXXXXXX~~ as they are formal parties
in the case and no relief has been sought against them.

Shri Mathur is still on his legs. It is 4.30PM and
therefore, list the case on 9.12.96.


JUDGE


JUDGE



1238



उच्च न्यायालय, मध्य प्रदेश, जबलपुर

सामान्य

क्रमांक

L.P.A. 155/98

सन् 199

आदेश पत्रक (पूर्वानुबन्ध)

सद्विक का दिनांक
या आदेश क्रमांक

INDCORP

हस्ताक्षर सहित आदेश

कार्यालयीन मामलों में डिप्टी रजिस्ट्रार
के अंतिम आदेश

30177

Shri AM Mathur
with Shri V. Suran.

vs
Shri Bhargava
with Shri Bahadur
H.R. No 5A6

Arguing
partly heard
Jtn 3-2-97
for further hearing

[Signature]
Judge

3-2-97

Parties as before

List on 4-2-97 for
further hearing.

[Signature]
Judge

[Signature]
Judge

4/2/97

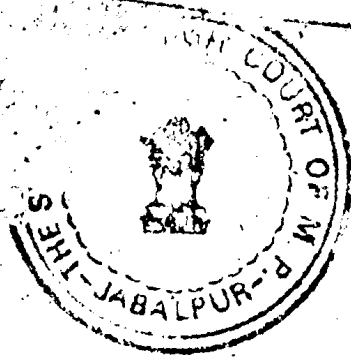
Parties as before

for further hearing

[Signature]
Judge

[Signature]
Judge

[Signature]
Judge



उच्च न्यायालय, मध्यप्रदेश, जबलपुर

! AFFIXED AT INDOR

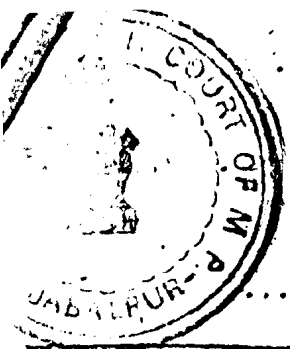
सामला क्रमांक

L.P.A. 155/96

सन् 199

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	22-1-97 Appellant by Sri V.Saran. Responde nts by Shri Bapat and Shri Seth. 27-1-97 List on 22-1-97 as prayed by counsel for the responde nts. <i>[Signature]</i> Judge. <i>[Signature]</i> Judge.	
	27-1-97. On 28-1-97. With connected case. <i>[Signature]</i> Judge. <i>[Signature]</i> Judge.	
	28-1-97 parties as before from 30-1-97 for further hearing <i>[Signature]</i> Judge. <i>[Signature]</i> Judge.	



उच्च न्यायालय, मद्रास, मद्रास

आदेश पत्रक

20A 155-50

मामला क्रमांक

सन् १९५८

विषय

सुप्रीम कोर्ट दिल्ली आदेश	आदेश इत्यादि सहित	आदेशों में दिष्टी सहित के अतिरिक्त आदेश
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5-2-57

parties as
before
Reheard on 6-2-57
mya/ Judge In Judge

6-2-57

parties as
before
Shri Bhargava
with Shri Bahad
completed their arguments
Reheard on 7-2-57
for further hearing
mya/ Judge In Judge

7-2-57

Shri B. Pandia appears
and states that Senior Shri AM Mathur
who argued the case is out of station
and therefore prays for him
Let on 24-2-57 as
prayer for
mya/ Judge In Judge

आदेश पत्रक (प्रमाणित)

आदेश का
प्रति - आवेदक
को भेजा जा रहा है

आदेश हस्ताक्षर सहित

आदेशों में किसी भी प्रकार
के परिवर्तन, आदेश

24/2/97 Appellant by Shri
A.M. Mathur with Shri
Shrivastava
Resp. State by
Shri Desai.

None appears
for other respondents.

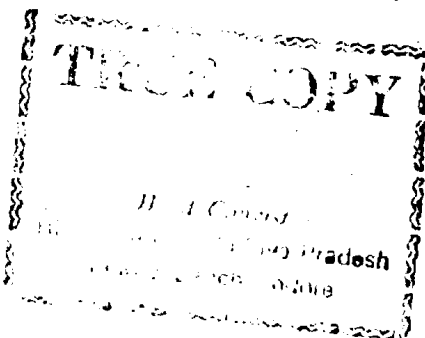
This is a part-
heard matter. The
same is to be heard
by a Bench consisting
of one of us Justice
R. D. Shukla and Hon.

Shri J. G. Chitre, J.

In view of above,
list the case on
27.2.97.

[Signature]
Judge

[Signature]
Judge





उच्च न्यायालय, मध्यप्रदेश, जबलपुर

AFFIXED AT

समिली क्रमांक

सन् 199

आदेश पत्रक (पूर्वानुसूच))

दिनांक
क्रमांक

हस्ताक्षर सहित आदेश

काबिलीयत मामलों में हिस्ट्री रजिस्ट्रार
के प्रतिपक्ष आदेश

3/3/97

Appellant by
Shri V. Sharan.
No body appears
for respondents.
List the case
for hearing on

13-3-97

21/3/97
Judge

4-
Judge



उच्च न्यायालय, मध्य प्रदेश, जबलपुर

आदेश पत्रांक

आदेश पत्रांक LPA 155/96 सन् १९९६

विरुद्ध

आदेश का दिनांक आदेश पत्रांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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23.3.97

Appellant by Shri A.M.Mathur with Shri V.Saran.

State by Shri G.Desai.

No-body appears for other respondents.

Shri Bhargava, Senior counsel is reported to be ailing and has gone for checking. Shri Bapat whose name also appears is not present.

In view of above as Shri Bhargava is indisposed, we accept the prayer.

List the case for further arguments on 27.3.97 as prayed for by the parties.

JUDGE

JUDGE.

27.3.97

App. by Shri Mathur with Shri V. Saran.
Reps. by Shri Bapat and Shri J. Lawat.

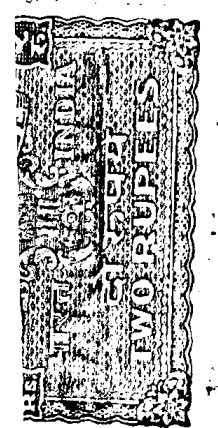
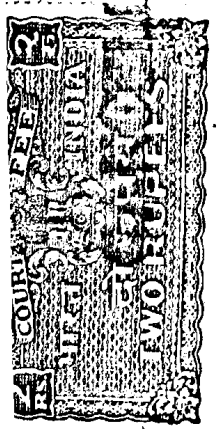
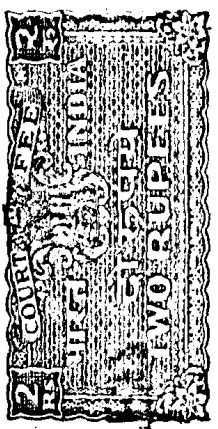
Sr. Counsel Shri Bhargava is not available.

Order on 10.4.97.

Judge

Judge

[कोर्ट के लिए]



आदेशों का
दिनांक आदेश
पत्रक सहित

आदेश हस्ताक्षर सहित

कार्यालयीन मामलों में डिप्टी जजिस्ट्राट
के आदेश आदेश

AFFIXED

AT INDOR

parties as
election

1st 23-4-97

as directed by the
parties along with
some other cases.

1st
Judge

1st
Judge

23-4-97

Appellant by Shri
A. M. Mathur, ~~Shri~~
with Shri V. Sharan.
Respondent. State
by Shri P. Mathur.
Respondent No. 6 by
Shri B. Sargava and Shri
Bapat.

This is a part-heard matter.
The same was heard by a Bench
consisting one of us Shri R. D. Shukla J.
and Hon. Shri Justice J. G. Chitre.

Therefore, list the case before the
same Bench.

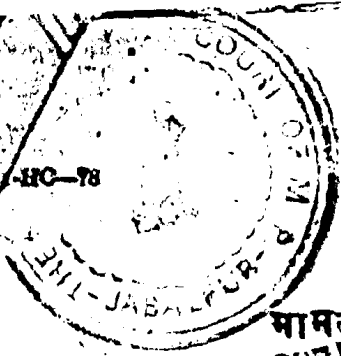
List this case along with
other connected cases on

7-5-97.

1st
Judge

212
Judge

HC-78



उच्च न्यायालय, मध्यप्रदेश, जबलपुर

LP 155
96

मामला क्रमांक

सन् 199

AFFIXED AT-INDORE

आदेश पत्रक (पूर्वानुक्रम)

आदेश का दिनांक
यथा आदेश क्रमांक

हस्ताक्षर सहित आदेश

काशीलयीन मामलों में हिन्दी रजिस्ट्रार
के संदिग्ध आदेश



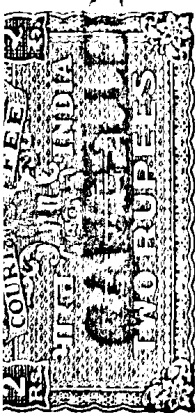
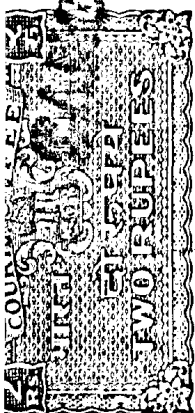
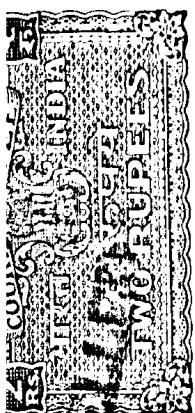
7-537

parties as
before
myself
heard & reserve
for order.
my
Judge



FIXED AT INDORE

1-2-1



118 क्या वेतन तथा भत्ता के पुनर्रिक्त का औचित्य है ? यदि हाँ तो वेतन, महगाई भत्ता एवं अन्य भत्ता की क्या योजना होनी चाहिये इस संबंध में नियोजकों को क्या निर्देश दिये जाना चाहिये ?

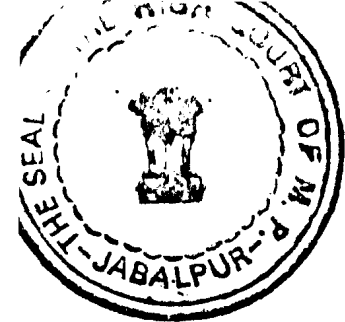
128 क्या प्रति वर्ष 15 दिन का आकस्मिक अवकाश, 10 दिन का त्योहारी अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?

138 क्या संलग्न में उल्लेखित सम्प्लाई का सेवा पृथकीकरण वैध एवं उचित है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?

3. Industrial court received reference order and took it on record, On 5.3.93, the case was listed for hearing on 11.3.93. On 11.3.93 notices to both parties were directed to be issued and the case was fixed for 27.4.93. Notices, in fact, were issued on 23.9.93. On 27.4.93 appellants raised preliminary objections before the Industrial Court. The case was fixed for reply. Judge of Industrial court vide order dated 20th Dec., 94 referred the matter to President, Industrial Court for constituting a Larger bench. The Reference was received by Industrial Court at Indore on 22.2.95 and the case was fixed for hearing on 27.2.95. Arguments in the case were heard on 24.4.95.

4. Division bench of Industrial Court at Indore passed an order on 21.5.95 vide Annexure A/47.

State Government vide order dated 27/31.1.95



FIXED AT INDORE

:-3:-

(Annexure A-48 to A-62 of petition) amended the original reference by adding one more term of Reference which reads as follows :-

§" क्या अनुक्रमांक 3 के संलग्न परीशिफ्ट में उल्लेखित सेवा से प्रथक किए गए एम्प्लॉई को विवाद का निराकरण होने तक अन्तरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिए जाना चाहिए ?"

5. Appellants here, filed W.P.No.1231/96 on 15.9.95 and claimed following reliefs :

"(a) Order of respondent No.1 and 2 dated 31.5.95 be quashed; &

(b) Order of Reference by State Government as contained in Annexures- A/1 to A/15 and A/48 to A/62 be quashed and the interim relief prayed for was :

"the proceedings before the Industrial Court, Raipur, respondent No.3 be stayed."

The case came up for hearing before the learned Single Judge on 22.9.95 and Hamdust notices were directed to be issued.

6. After passing of the order of Reference by the State Government and during the pendency of petition the proceedings continued before the Industrial Court at Raipur with following orders and directions :

(a) Respondents No.5 and 6 filed statement of

941

AT INDORE

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case was fixed for hearing on 11.10.95.

- (b) The case was taken up on 12.9.95 at the request of advocate of Union (Party No.1) Claim was filed by respondent Union and the matter was directed to be fixed for hearing on 10.10.95 on the question of interim relief.

- (c) Notices were served on respondents on 6-10-95.

As the Presiding Officer was on leave on 10.10.95, the case was fixed for 12.10.95.

- (d) On 12.10.95 appellants here filed application for adjournment on grounds : That a petition has been filed before the Hon'ble High Court Bench at Indore challenging the order dt.31.5.95 passed by State Govt. It was further submitted that statement of Claim has to be filed.

- (e) Learned Industrial Judge, Raipur(respondent No.3) rejected the application and proceeded to hear arguments ex parte and after hearing the parties passed an order that the management of Appellants here and co-respondents (other than respondent No.1 to 6) shall reinstate the employees whose names appear in Annexure enclosed with Reference or in the alternative employer was directed to make payment of wages drawn by them at the time of termin-



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tion and further directed compliance of order within one month. Case was directed to be fixed for hearing on 9.11.95 Annexure X/1-A & X/1-B.

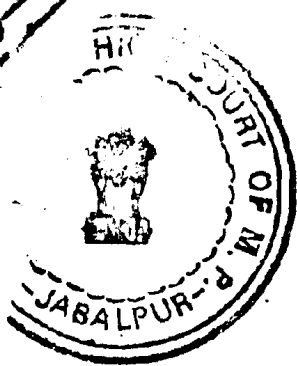
7. Learned Single Judge after hearing the parties stayed the order dated 12.10.95 vide its order dated 3.11.95. This order continued till passing of final order dated 27.9.96.

Thereafter appellants here, by amendment inserted a further relief and claimed that impugned order dated 12.10.95 Annexure P/7 passed by Industrial Court at Raipur be quashed.

8. Learned Single Judge dismissed the petition on following grounds :-

- "
- (i) Term No.4 of the Reference has been decided by the Member Industrial Court, Raipur, by order dated 12.10.95 and the same can be challenged only at Jabalpur
 - (ii) The order of Industrial Court is only interim in nature and as the Tribunal has jurisdiction to decide the question the High Court will decline to interfere.
 - (iii) Section 51 of the Act is not controlled by Section 62 of the Act which applies to proceedings before the Labour Court and proceedings U/s.51 of the Act before the Industrial Court and, therefore, point of limitation raised was also rejected.

Learned Single Judge further held that orders made by Government are executive in nature and it is necessary to give reasons for its decision.



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FIXED AT INDORE

L.P.As have been filed.

10. Contentions of learned counsel for appellants are that the Industrial Judge by way of grant of interim relief has granted final relief which is not permissible under law. Learned Industrial Judge has granted relief of reinstatement which could be granted only after deciding term No.3 of Reference.

That Terms No.1 and 2 of Reference raises industrial dispute while individual examination will have to be done by Labour court for subjects covered under Term No.3.

That, Division Bench constituted under orders of President, Industrial Court has given a finding that the cases of suspended workers could not be referred but learned Member, Industrial Court, has granted interim relief overlooking the said order which is illegal per se. The Industrial Court has passed blanket order of reinstatement which is also illegal.

No reference could be made without obtaining consent and willingness of the parties and no such consent and willingness was obtained from parties as required U/s.62 and 62(1)(a) of the Act and, therefore, Reference is not competent and tenable in law.

Termination of services of employees fell within Schedule II of the Act and as such, any proceedings for resolving the dispute could be commenced U/s.61 of the Act before the Labour Court only. As no such proceedings were commenced the remedy is barred. In such a situation no reference could be made U/s.61 of the Act.



The question of termination and suspension of employees could be settled by other means as there is complete set up of machinery in the hierarchy of Labour Courts and, therefore, no reference could be made under Clause (a) of Section 51(1) of the Act.

That, the report by Conciliator under sub-section (2) of Section 43 and forwarded by the Chief Conciliator to the Government has not been made available to Industrial Court and, therefore, the reference is incompetent on this ground also.

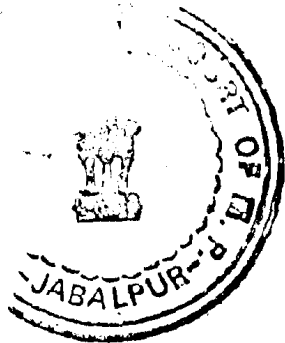
That, since relief claimed by way of interim application was allowed to be amended it relates back to the date of filing of petition and as the same was brought to the notice of learned Single Judge on 31.10.93 learned Single Judge ought not to have refused to adjudicate on the matter.

That, 398 workers shown in 1st list (Pages 65 to 68 of Paper-book) and in second list (Pages 83 to 90 of Paper-book), 354 employees have been shown to be suspended. No Reference of suspended workers could be made.

That, workers were suspended/terminated in the year 1990-91. The Reference has been made on 6.2.93 i.e. nearly after two years which is against the provisions of Section 62 of the Act.

That, there was a conciliation but no report was sent to Industrial Court before referring the matter to the Industrial Court under Sec. 31(1) of the Act.

That, interim order was passed by Industrial Court during pendency of the case before this Bench of High Court and, therefore, that could be agitated in the



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present petition.

FIXED AT INDORE

Learned Single Judge was not correct in dismissing the amendment application I.A.No.4563/96 on ground of its being belated.

That, the State Government has added 4th term of Reference without giving an opportunity of hearing to the parties and without recording reasons and ~~xxx~~ satisfaction thereof.

10. Counsel for respondents on the other hand raised a preliminary objection about the maintainability of petition at Indore Bench of M.P.High Court and further submitted that Jabalpur Bench of this High Court has exclusive jurisdiction over the matter.

It has further been submitted that in a different proceeding the contention of appellants here has been rejected and, therefore, the same can not be agitated now.

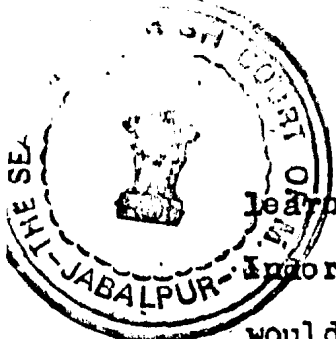
On merits it has been submitted that the powers of State Government U/s.51(1) of the Act are not in any way controlled by the provisions of Sec.62 of the Act. It is an executive order of State Government and, therefore, no reason was required to be assigned.

The matter was already referred by earlier order and therefore, there was no necessity of giving an opportunity of hearing the parties before referring Term No. 1.

11. The first point that arises for consideration in the case is as to whether this Bench has jurisdiction to hear the matter?

These LPAs are directed against the order

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718



learned Single Judge who decided the case as a Judge at Indore Bench and, therefore, the LPAs against that order would lie at Indore Bench only. On a reference made by

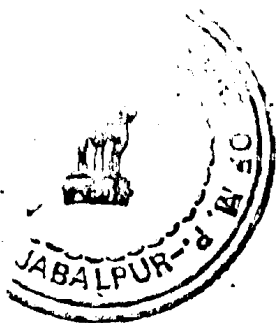
learned Member, Industrial Court at Raipur, President Industrial Court, Indore, constituted a Division Bench who decided the matter by a common order at Indore on 21.5.95 (Annexure A/47) and rejected the objection with a direction for reference being placed before Raipur Bench.

The petition was filed before Indore Bench of High Court on 15.9.95. Thus, Indore Bench of High Court was ceased of the matter. In such a situation the subject matter under the consideration of Indore Bench could not be heard at any other place unless the cases were also transferred to Bench at Jabalpur under orders of the Chief Justice.

In our considered opinion, therefore, Indore Bench had jurisdiction over the matter and the objection raised by respondents about non-maintainability of LPA at Indore is, therefore, dismissed.

12. Section 61(Ch.X) of the Act deals with the powers and duties of Labour Courts, Industrial Court or Board of Arbitration and certain other matters. Section 62 deals with the procedures before the Labour Court. Section 11 deals with the constitution of Board.

It has been submitted on behalf of the appellants that without adopting the proceedings of conciliation or without obtaining a report from the Conciliator or the Chief-conciliator, as the case may be, the State Government could not make a Reference



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to the Industrial Court.

13.

Section 51 of the Act reads as follows:

" 51. Reference of disputes to Labour Court, Industrial Court or Board .--

(1) Notwithstanding anything contained in this Act, the Government may, if on a report made by the Labour Officer or otherwise it is satisfied that an industrial dispute exists, and -

- (a) It is not likely to be settled by other means; or
- (b) by reason of the continuance of the dispute .-

(i) a serious outbreak of disorder or breach of the public peace is likely to occur ; or

(ii) serious or prolonged hardship to a large section of the community is likely to be caused; or

(iii) the industry concerned is likely to be seriously affected or the prospects and scope of employment therein curtailed; or

- (c) it is necessary in the public interest to do so;

refer the dispute or any matter appearing to be connected with or relevant to the dispute for arbitration to a Labour Court or the Industrial Court or a Board :

Provided that :-

(1) no reference under this section shall be made to a Board (without referring the matter to the parties and obtaining consent) in writing of one of the parties to the dispute; and

(ii) no reference shall be made to Labour Court under this section if the matter in dispute is included in Schedule I or if the dispute is between employees and employees.

- (2) A copy of the report sent by Conciliator under sub-section (2) of section 43 and forwarded by the Conciliator to the State Government under sub-section (2) of the said section shall also be made available to the Labour Court, or the Industrial Court or the Board, as the case may be before it proceeds to deal with the reference under sub-section (1)."

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Learned counsel for appellant has further submitted that in view of provisions of Sec.51(1)(c)(ii) if the matter falls within Schedule I, no reference could be made to Labour Court. It is further submitted that reference No.1 and 2 are covered under Item No.9 of Schedule I and Reference No.3 is covered under Item No.6 of Schedule II and therefore, reference of It - No.1 and 2 are wholly illegal.

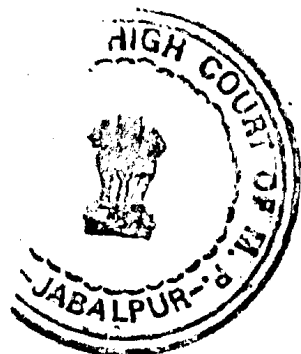
Government should have waited the report of Conciliator or the Chief Conciliator as required U/s. 51(2) of the Act and, therefore, in absence of report also the reference is bad.

15. It has also been submitted that notice of challenge was also never issued by the employer and no reference with respect to declaration by Industrial Court was made. In such a situation the blanket reference without adhering to other requirements is illegal per se.

16. The contention of learned counsel for respondents here, on the other hand is that because of non-obstante clause State government made on information received otherwise and on its own satisfaction about the fact that the Industrial dispute exists and is not likely to be settled. State Government apprehended serious out break of disorder, and serious and prolonged hardship to a large section of the community and, therefore, has made Reference in its discretion and in exercise of powers U/s.51 of the Act.

17. Looking to the non-obstante clause in Section 51 of the Act the power of reference appears to be executive in nature. In exceptional cases government

718



FIXED AT INDORE

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is not required to wait for the report of the Conciliator U/s.43 or existence or pre existence the requirements of Section 31 and Section 82 of the Act.

Now, therefore, it is to be seen as to whether existence of condition as provided U/s.31, 43 and 82 of the Act is necessary before State Government could make Reference to Industrial Court.

Similar question arose before the Supreme Court in a Case reported in AIR 1966 S.C.497 (Ahmedabad Millowners' Association v. The Textile Labour Association) whereby it was held that Section 31 is not a condition precedent for enabling the State Government to make a reference U/s.51 of the Act. The language of Sec.51 is very wide in scope and authorises the State Govt. to refer an industrial dispute for arbitration provided other conditions are satisfied.

On consideration of language of Section 51 of the Act it is clear that Section 51 is not controlled by anything contained in Section 31 of the Act. [AIR 1969 M.P.248]-(Paras 3-& 8) (Employees of Asbestos Cement Ltd., Kymore v. Industrial Court, M.P.Indore and others).

18. So far as the point of limitation is concerned, that dispute is barred by time. The same can be raised during hearing before the Industrial Court.

Parties are free to raise point of limitation before the Industrial Court. It would not be proper for this court to adjudicate this matter at this stage without affording the parties to lay evidence on the point.

is as to whether the cases of suspended employees could be referred.

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We have perused Schedules I and II. In our considered opinion, it is the case of dismissal of employees that could be raised by way of Industrial dispute and not the case of suspension. In such a situation the case of suspended employees could not have been referred. The very reference of suspended employees, as per the list referred above, goes to show that there has been a non-application of mind. Either it has been done to help the employer and frustrate the whole proceedings or have been made in total disregard and ignorance of law. However, this matter can be raised before the Industrial Court who may decide the issue so raised and may come to its own conclusion. The parties would be free to raise this point before the appropriate forum after adjudication by the Industrial Court.

We would not like to ~~enter~~ dwell into the matter as the cases of terminated employees have also been referred with suspended employees.

20. It is not in dispute that on a Reference by learned Single Member of Tribunal to President, Industrial Court Division Bench of Industrial Court was formed who after hearing the parties decided the matter determined issues and remanded the case for decision to Single Judge of Industrial Court for adjudication.

Division Bench of Industrial Court also made an observation that the case of suspended employee could not be referred.

We are in complete agreement with the

2/718

observation of Industrial Court with respect to Reference of the cases of suspended employees.

21. In view of above it has to be seen as to whether executive decision of the State Govt. has been made without proper application of mind or whether it is capricious in any way.

The list of suspended workers has been attached alongwith reference while reference has been made for examining as to whether dismissal and termination is proper. This goes to show that there has not been proper application of mind but as this question can be raised before the Industrial Court and, therefore, it would not be proper for this court while dealing with the LPA to interfere in the matter.

22. Section 51(c)(ii) of the Act prohibits reference to Labour Court if the dispute is included in Schedule I but as observed in earlier paragraphs the decision of government is not controlled by Section 31 of the Act. The State Govt. is free to make reference even on those subjects as well even in absence of any notice of challenge by the employer.

23. The next point that arise for determination is as to whether reference No.4 could be made during the pendency of the case before the Industrial Court.

It is not in dispute that after the Division Bench of Industrial Court remanded the case to Single Bench and before the matter could be taken up by Ind. Court Raipur Judge of Raipur Industrial Court, State Government of made reference No.4. Thus, reference/ Item No.4 has been made without permission was sought from P.B. of Industrial Court. made when the matter was subjudice. This would amount to interference in the judicial proceedings. Reference Item No.4 in fact interferes in the judicial proceedings which

is not permissible under the law.

It may further be noted that before making the reference of Item No.4 the parties to dispute were never heard. They were never given an opportunity to state as to whether such a reference is necessary.

24. Section 107 of the Act provides about passing of the interim orders. It is for the parties to the litigation to approach the Court for passing that order and the court after considering the facts and circumstances of the case may pass the order. Thus, firstly, the reference No.4 was wholly unnecessary as the court has inherent powers and powers as provided U/s.107 of the Act ~~to~~ to pass interim orders if the necessity arises; secondly making a reference for interim order ^{without leave of the court} during the pendency of case/amounts to interference in the due process of justice. Now, therefore, it is to be examined further, whether Reference No.4 falls within the powers of State Govt.

25. In our humble opinion Item No.4 of ^{within-} reference does not come ~~to~~ the ambit of Sec.51 of the Act despite non-obstante clause, State Govt. has no power to enlarge the scope of Section 51 of the Act. In such a situation the Item No.4 of Reference would be per se illegal.

26. Now the last point that requires for determination is as to whether the blanket order of reinstatement as directed vide ~~order~~ dated 12.10.51 of the Industrial Court could be made.

27. The fundamental principle of justice is that justice should not only be done but it should be shown to have been done.

Learned Industrial Court in a similar situation (Page 295-296 of the Paper-book) adjourned the case. Parties (appellants here) were not given due opportunity of replying to the prayer of interim relief. Even otherwise, the matter was pending before the High Court and therefore, the order of reinstatement should not have been made in post haste.

28. Learned Industrial Court, in fact, has answered Item No.3 of Reference by way of interim order without giving opportunity to the opposite party.

29. Though it is true that Section 107 of the Act authorises the Labour Court /Industrial Court to pass interim orders for granting interim relief but before granting interim relief the court is required to see the prima facie case irreparable injury and balance of convenience. It is mandatory for the Industrial Court /Labour Court to find as to whether there is a prima facie case in favour of the person seeking interim relief it must also take into account that irreparable injury is likely to be caused and also has to be considered balance of convenience.

"After finding that there is a prima facie case, the Court has to consider whether the party seeking extra-ordinary relief of injunction could be compensated in terms of money. So far as the doctrine of relative or comparative injury is concerned, it rests upon particular or peculiar circumstances of each case. Thirdly, the Court has to consider the balance of convenience in favour of one party in granting an injunction or in favour of opposite party by its refusal. The extra-ordinary nature of the remedy by injunction calls for careful consideration of this guiding

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principle and it can safely be said that rarely injunctive relief will be granted, when it operates inequitably or to control the real justice of the case, in case of employer and employee whether it affects discipline. Besides there are host of considerations and one of them is that while granting interim relief, the whole relief is not granted without enquiry or trial of the case."

.... [1990 J.L.J. 66]

30. If we examine the application and the order passed by Industrial Court in this back-ground regarding interim relief, it appears that there has been total non-application of mind. Learned Judge never tried to see and find as to whether three prerequisites for granting interim relief were present.

31. It has been submitted by learned counsel for respondents (here) that learned Single Judge has refused to exercise powers U/s.227 of the Constitution of India and, therefore, no LPA would lie against such order where court has either exercised or refused to exercise powers U/s.227 of the Constitution of India.

32. We do not agree with this contention of learned counsel as the Writ was filed before this Bench of the High Court against the Division Bench order of Industrial Court on 15.9.95. The court took cognizance on 22.9.95. The relief sought was for quashment of order dated 31.5.95 and for quashing the reference itself. In such a situation appellants here have approached this court for exercising the powers under Art. 226 of the Constitution of India. This Writ under Article 226 was pending and the interim ~~order~~ order was passed by learned Single Judge on 12.10.95 giving a perency of this case.

In such a situation the propriety and justice demands that this court should interfere ⁱⁿ ~~with these~~ matters if the same is not founded in law or is illegal otherwise.

33. The order of interim relief is contrary to finding of D.B. of Industrial Court dated 31.5.95 the order was passed without affording proper opportunity to of hearing the parties. Only Shri Gupta counsel for other party was present. It would be proper to reproduce the proceedings which is as follows:

12.10.95.

Shri S.L.Gupta, Adv. for First Party Pragatisheel Engg. Shramik Sangh.

Shri H.N.Vyas, Adv. for Party No.2 Bee Kay Steel Casting. He filed an application for adjournment on the ground that a petition has been filed before the Hon'ble High Court of M.P. Bench Indore against the order dated 31.5.95 and also the order adding to the terms of reference item No.4 vide order dated 31.7.95.

Secondly according to Shri Vyas, the reference cases cannot be transferred to Industrial Court, Jabalpur. Shri S.L.Gupta, Adv. for Party No.1 does not file any reply to the application filed by Shri Vyas, Adv. But opposes it orally with his usual vehemence.

Shri H.N.Vyas, Adv. and Shri S.L.Gupta Adv. submitted their respective arguments in respect of application dated 12.10.95 filed by Shri Vyas, Adv.

So far as the arguments by Shri Vyas that the reference has been made by the Govt. Hon'ble President, Industrial Court cannot transfer it from the jurisdiction of Industrial Court, Jabalpur to Industrial Court, Jabalpur is concerned. One cannot go behind the order passed by the Hon'ble President. The objection raised on this count deserves to be rejected straight way.

So far as the question that some petition has been filed before Hon'ble High Court, Bench Indore is concerned, Shri Vyas files copy of proceeding dated 22.9.95.

But as is evident from the said proceeding, there is no stay on the proceedings of this Court nor it appears to have been admitted.

I, therefore, do not see any reason to adjourn case.

There is specific term of reference which is at certain employees. The application filed by Shri Vyas is hereby rejected. Shri Vyas prays for time to challenge the order passed by me today.

Shri S.L.Gupta opposes the contention by Shri Vyas on the ground that the management are bent upon stalling the proceedings and the employee x will not be able to get their rightful claims. Shri Gupta also states that the management Party No.2 can raise the objections as and when they go to Higher Courts.

Shri Khanuja, Adv. who is also appearing in other cases on behalf of management urges that there is no delay on the part of the management.

So much is certain that the reference has been made about two years and preliminary objections had been raised and they had been decided.

The second Party were therefore well aware of the matter and could have filed reply to the application for interim relief. But instead of filing any reply they preferred to focus attention on matters other than that of interim. This speaks volumes about their intention.

As the Party No.2 is reluctant to file reply or advance arguments today and want a somewhat long adjournment for the purpose, proceed to hear to the arguments of S.L.Gupta on the point. Shri Gupta heard.

For orders.

Sd/-~~xxx~~
Member Judge.

Later on

Shri S.L.Gupta, Adv. had brought to my notice that the employees are out of employment since more than two years. The reference is not likely to be decided finally in the near future. The employees therefore deserve to get some relief by way of interim relief. It is hereby ordered that the management will reinstate the employees whose names appear in the annexure enclosed alongwith the reference received from the Govt. In the alternative the employer is directed to pay the employees the wages drawn by them at the time of termination. The second party employer to comply with the order within one month from today. Parties be informed.

Put up on 9.11.95 for filing reply to statement of claim and further proceedings.

Sd/- A.N.Sorti.

Member Judge. "

34. A plain reading of order would show looking to the word "later on" that the prayer for interim relief was made later and without noticing to other party. Thus, the order of learned Industrial Court was unfair and arbitrary.

35. Learned Industrial Court has applied double standard. In a similar situation the adjournment was granted to other party (Pages 95,96 of Paper book) but the same was refused to appellants here. This discriminatory behaviour is against the principles of justice.

36. Learned court for respondent has referred to a case reported in 1977 S.C. 27 (Manghoir v. Mahavir Prasad Gupta) and submitted that as the order was passed by Industrial Court the same has been concurred by learned judge, therefore, no interference in

the finding of fact should be made as the present L.P.As are in the nature of Second Appeal.

37. We have taken into consideration the legality of Reference No.4 which was considered only by learned Single Judge of this High Court. The same amounted to interference in judicial proceedings. Even otherwise, if there was necessity the parties could approach the judge who was seized of the matter to see as to whether the conditions for passing interim order exists and thus reference was wholly unnecessary and the case law does not help counsel for respondent in any way.

38. Counsel for respondents then referred to a case reported in AIR 1984 S.C.1467 (Sadhu Ram v. Delhi Transport Corpn.)

We respectfully agree with the principle of law enunciated therein by the Apex Court of this country. The facts of the case referred are different. Here there has been interference in the pending proceedings and, therefore, we have decided to exercise our jurisdiction under Art.226 of the Constitution.

39. In view of discussion above we do not find any error in the References of Point/Item No.1 to 3 made by State Government. We, therefore, declined to interfere in the matter. However, we find substance in the submission with respect to Reference Item No.4 and the interim order passed by Industrial Court at Raipur. The same is not founded on law and, therefore, that deserves to be quashed.

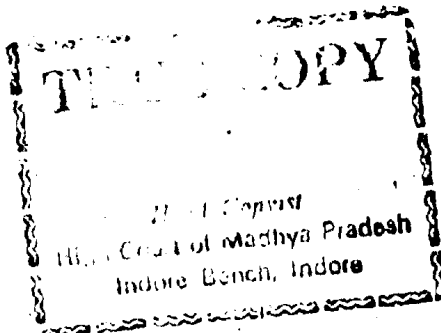
40. As a result all the four L.P.As partly succeed.

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Letters Patent Appeal Nos. 155 of 1996, 156 of 1996,
162 of 1996 and 163 of 1996.

Manager, Kedia Distillery,
Bhilai.

Vs.

FIXED AT INDORE

Chairman/President, State Industrial
Court, Indore and others.

ORDER

Per J.G. Chitre, J:

This letters patent appeal has been heard finally at this stage of admission on the request of the parties and keeping in view the urgency of decision in the matter, keeping in view the welfare of the workmen of industries involved and smoothness of the industrial relations.

2. I do not find it necessary to repeat the facts as the necessary facts have been enumerated by my learned brother.

3. This appeal is assailing the correctness, propriety and legality of the order of learned Single Judge of this Court at Indore in the matter of Writ Petition No. 1231 of 1995. Learned counsel appearing for the respondents objected to the maintainability of this L.P.A. by submitting that this L.P.A. is not maintainable as the subject-matter of controversy and adjudication pertains to territorial jurisdiction of the main seat of this High Court at Jabalpur and the order under challenge relates to Article 227 of the Constitution, the supervisory jurisdiction of this Court.

4. I do not find any substance in the objections because the appellants are challenging the correctness, propriety and legality of the order of learned Single Judge of this High Court at Indore rendered in Writ Petition No. 1231 of 1995. L.P.A. is intra-court

for hearing by the learned Single Judge of this Bench, intra-court^{appeal}, by way of L.P.A. is entertainable for hearing by this Bench of the High Court. The order which is being assailed by this appeal shows that learned Single Judge has adjudicated the writ petition by treating it to be connected with Article 226 of the Constitution.

5. In the above-mentioned writ petition the appellants had prayed for following reliefs:-

- (1) the order passed by respondent nos.1 and 2 dated 31-5-95 be quashed;
- (2) the order of reference by State Government as contained in Annexures A-1 to A-15 and A-48 to A-62 be quashed;
- (3) interim relief be granted in favour of the appellants staying the proceedings before the Industrial Court, Raipur (respondent no.3).

6. The appellants had prayed for amendment in the writ petition by moving I.A.Nos.4563/96 and 4564/96. By these applications the appellants prayed for quashing the order which was passed by respondent no.3 on 12-10-95 (Annexure P-7). These applications were disposed of by learned Single Judge by his observation in paragraph no.8 of the order which is under challenge in this appeal. The applications were disposed of on the ground of delay and by holding that the main seat of this High Court at Jabalpur possesses exclusive jurisdiction to entertain the writ petition which was before the learned Single Judge.

7. The other prayers of the appellants were dismissed by learned Single Judge on following grounds: (i) the writ petition was premature as the appellants should have waited for the final decision of the Industrial Tribunal; (ii) Section 51 of M.P. Industrial Relations Act 1960 (hereinafter referred to as the Act for convenience) is not controllable by provision of Section 62. Provisions of Section 62 apply to proceedings before the labor

rt and provisions of Section 51 apply to the proceedings before Industrial Court. By indicating that way, the learned Single ge dismissed the arguments of the appellants on the point of limi- from in context with the reference of the State Government dated -2-93; (iii) it is not correct to say that if the matter in dis- be is covered by Schedule II then no reference can be made to the dustrial Court. It should be made to Labour Court; (iv) the pro- sions of sub-section (2) of Section 51 are not mandatory and (v) or making reference under Section 51 of the Act, the powers of ate Government are executive in nature and it is not necessary to ive reasons for its decision unless the law so required. Provision f Section 51(1) do not require such reasons to be given.

8. The learned counsel appearing for the appellants argued that though the Government by its order dated 26-2-93 made a refe- rence to the Industrial Court, Raipur, the writ petition was main- tainable for hearing and decision at Indore Bench of this High Cou because the said writ petition was assailing the order which was passed by Division Bench of Industrial Court which decided the ref- erence made by Industrial Court Raipur, at Indore on 31-5-95. It has been argued that as the cause of action for the said writ petition i.e. the order of Division Bench of Industrial Court, arose at Ind within the territorial jurisdiction of this Bench, the appellants had the right to file the writ petition for the purpose of invok- ing the powers of this Court at Indore Bench for the purpose of quashing the said reference made by the State Government which ha been mentioned above and for praying for consequential reliefs. The learned counsel appearing for the respondents countered this argument by submitting that ^{as &} the impugned order of reference passed by the State Government and the proceedings which were to be con- sidered at Raipur were within the territorial

lants do not have right to file the writ petition for the purpose of invoking the powers of this Court and for praying for consequential reliefs.

9. In my view the contentions of the respondents are correct and legal. It is pertinent to note that the reference was made by Industrial Court, Raipur to the Chairman, Industrial Court M.P., at Indore, the respondent no.1, to constitute a larger Bench for the purpose of deciding the preliminary objections which were raised by the present appellants before it. In view of that reference, the Chairman of Industrial Court, M.P. constituted a Division Bench of which respondent no.2 was the member. That Division Bench comprising of respondent nos.1 and 2 was deciding those preliminary objections which were in context with the said reference made by the State Government and the issues ^{involved} ~~xxx~~ were pertaining to the jurisdiction of Industrial Court, Raipur to which the said reference was made. Respondent no.1 could have constituted the Division Bench or larger Bench comprising of the members functioning at Indore as well as at Jabalpur or functioning at places within the territorial jurisdiction of main seat Jabalpur. Even the Division Bench which passed the order dated 31-5-95 could have passed it by holding the sitting at a place within the territorial jurisdiction of main seat Jabalpur. It might have been the case that for the purpose of office convenience respondent no.1 might have constituted the Bench consisting of respondent no.2 as a member. Though the said Division Bench heard the said reference at Indore, what was being adjudicated was the preliminary objections raised in context with the said reference. What was being argued and adjudicated was pertaining to the territorial jurisdiction of main seat of this Court at Jabalpur. Learned Single Judge of this Bench might not have stated in these words but the tone of his order was the same. The learned Single Judge indi-

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ad that the petitioners ought to have waited for final decision of the Industrial Court. The tone of the decision of the learned Judge also indicated that he did not find proper and desirable to invoke the powers under Article 226 of the Constitution.

10. Thus, I hold that this Bench of the High Court did not have jurisdiction to adjudicate over the objections raised by the appellants in the writ petition about the said reference and the controversy involved. The appellants could have filed the writ petition at Jabalpur main seat of this High Court. They may file such petition if permissible by legal provisions. Therefore, I do not agree with my learned brother on this point of jurisdiction of this Bench of the High Court to entertain the controversy between the appellants and the respondents in context with the said reference to the State Government.

11. As I have come to the conclusion that this Bench of the High Court does not have the territorial jurisdiction to hear and adjudicate the controversy between the parties to the present appeal, I refrain from dealing with factual merit of the matter at its core.

12. In view of the arguments advanced on behalf of parties to this appeal, I have been called on to express my opinion about the provisions of Section 62 and Section 51 of the Act, their relation and their effect. Section 62 of the Act speaks of commencement of proceedings. It provides that proceedings before a Labour Court - shall be commenced: (i) in respect of a dispute falling under clause A) of sub-section (1) of Section 61 within two years from the date of the dispute; provided that if the dispute is connected with the termination of services of an employee, such proceedings shall commence within a year from the date of termination of the services of the concerned employee.

contained in this Act, the Government may, if on a report made by the Labour Officer or otherwise it is satisfied that an industrial dispute exists and (a) it is not likely to be settled by other means; or (b) by reason of the continuance of the dispute— (i) a serious outbreak of disorder or breach of the public peace is likely to occur; or (ii) serious or prolonged hardship to a large section of the community is likely to be caused; or (iii) the industry concerned is likely to be seriously affected or the prospects and scope of employment therein curtailed (c) it is necessary in the public interest to do so, refer the dispute or any matter appearing to be connected with or relevant to the dispute for arbitration to a Labour Court or the Industrial Court or a Board; provided that (i) no reference under this section shall be made to a Board without referring the matter to parties and obtaining consent in writing of one of the parties to the dispute; and (ii) no reference shall be made to a Labour Court under this section if the matter in dispute is included in Schedule I or if the dispute is between employees and employers. Sub-section (2) of Section 51 provides that a copy of the report sent by Conciliator under sub-section (2) of Section 43 and forwarded by the Chief Conciliator to the State Government under sub-section (3) of the said section shall also be made available to the Labour Court, or the Industrial Court or the Board, as the case may be, before it proceeds to deal with the reference under sub-section (1)."

14. The non obstante clause of Section 51 of the Act makes it very clear that the State Government is empowered to refer the dispute or any other matter appearing to be connected with or relevant to the dispute for arbitration to Labour Court or Industrial Court or a Board. Thus, provisions of Section 51 are independent provisions and not controlled by any other provision of the Act.

wider power has been conferred on the State Government to take decision whether it should refer a dispute or any matter appearing to be connected with or relevant to the dispute for arbitration to a Labour Court or Industrial Court or a Board. The main thing is that before acting in such manner before taking such action the Government is obliged to get itself satisfied. True, that the said Government is executive, but when such a wider power has been conferred on a Government to refer the dispute for arbitration to a Labour Court or Industrial Court or a Board irrespective of report made by the Labour Officer, the Government is obliged to get itself satisfied on a rational basis. The word "satisfaction" does not indicate only executive or ministerial act devoid of application of mind. When such wide power has been conferred on State Government, in its order the Government is obliged to indicate the material which has been considered by it before passing the concerned order. It has to indicate which material it has considered before getting satisfied that an industrial dispute exists. Every order passed, even in executive nature, has to satisfy the test that it is not arbitrary, capricious. It has to indicate by itself that the said order has been passed after due application of mind and after due consideration of relevant material.

15. Thus, on the above point I do not agree with the learned single Judge though I agree with him that powers conferred by provisions of Section 51 of the Act are not controlled by any other provisions of the Act.

J. L. M.
— JUDGE
7-8-1997.

मामला क्रमांक L.P.A. NO. 155/96 सन् 199

01/01/97

प्रादेश पत्रक (पूर्वनिबन्ध)

प्रादेश का दिनांक
तथा प्रादेश क्रमांक

हस्ताक्षर सहित प्रादेश

कार्यालयीन मामलों में डिप्टी रजिस्ट्रार
के प्रतिम प्रादेश

19.9.1997:

Shri A.M. Mathur learned Sr. counsel with
shri Brijest Pandya learned counsel for the appellant
in all these LPAs i.e. 152/96, 155/96 and 153/96 and
156/96.

None for the respondents.

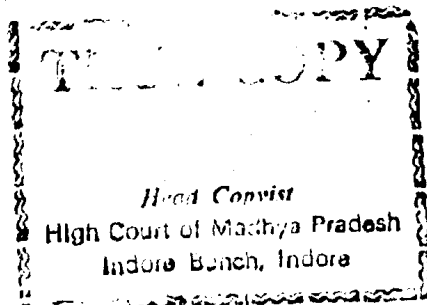
It appears that the office has not bothered
to give intimation of the date to the counsel for the
respondents.

Shri Mathur also prays for time.

In the circumstances I adjourn all these
Letters Patent Appeals with a direction to the office
to list the same again after giving proper intimation
to the respondents and their counsel.

JUDGE

Pl. more 2 copies
19/9/97



उच्च न्यायालय, मध्य प्रदेश, जबलपुर

माधवा क्रमांक L.P.A.No. 155 of 1996 सन 199

INDOOR

आवेदन पत्रक (पूर्वानुबन्ध)

दिनांक क्रमांक	हस्ताक्षर सहित आवेदन	न्यायाधीश माननीय जे.डि.ए. रजिस्ट्रार के अंतिम आदेश
	<u>24.10.1997 :</u> Shri A.M.Mathur,learned senior counsel with Shri V.P.Saraf,for the appellant. Smt.Vinita Phaye,learned Panel Lawyer for respondents No.1 to 4. Shri L.P.Bhargava,learned senior counsel with Shri S.M.Bapat,for respondents No.5 and 6. None for respondents No.7 to 20. These respondents are said to be formal parties. The counsel for the parties submit that their presence is not necessary in this appeal. Shri Mathur prays for time to place on record the point, indicating difference of opinion,for consideration by this Court. Shri Bhargava prays for time to file the copies of the orders passed at Main Seat. On joint request, the appeal is accordingly adjourned with direction to list it for final hearing again on <u>21.11.1997.</u>	 J U D G E

उच्च न्यायालय, मध्य प्रदेश, जबलपुर

L.P.A.No. 155/96 ✓

मामला क्रमांक

156/96

162/96 &

163/96

सन् 199

आदेश पत्रक (पूर्वानुबन्ध)

नं०

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के प्रतिम आदेश
	<u>21.11.1997 :</u> Parties through counsel. Shri Bhargava has filed <u>I.A.No. 5418/97</u> in Letters Patent Appeal No. 155/96 to take the copies of the orders on record. After hearing the counsel for the parties, the application is allowed. These copies are directed to be placed on record of the aforesaid Letters Patent Appeal. Shri Mathur has placed on record that this Court is required to resolve the conflict on two questions as indicated by him. Shri Bhargava and Shri Mathur pray for time to submit the statement showing the precise points of difference between the two Hon'ble Judges. As prayed by the counsel for the parties, list these LPAs on 5th December, 1997.	
	TRUE COPY High Court of Madhya Pradesh Indore Bench, Indore	JUDGE