

Darshan Singh Vs The New Tibba Cooperative Agricultural Service Society and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: April 15, 2009

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 100, 11, 9, 96

Constitution of India, 1950 â€” Article 136, 19(1), 226, 227, 32

Industrial Disputes Act, 1947 â€” Section 10(1), 17, 17(2)

Writ Jurisdiction (Punjab and Haryana) Rules, 1976 â€” Rule 32

Citation: (2009) 2 ILR (P&H) 687 : (2009) 5 SLR 595

Hon'ble Judges: M.M. Kumar, J; H.S. Bhalla, J

Bench: Division Bench

Final Decision: Allowed

Judgement

M.M. Kumar, J.

The workman has approached this Court by filing the instant appeal under Clause X of the Letter Patent challenging the judgement dated 27.4.2005 delivered by a learned Single Judge, in CWP No. 3017 of 1986, allowing the writ petition filed by the respondent-

New Tibba Cooperative Agricultural Service Society Limited, Tibba through its Manager/Secretary (for brevity "the Society").

2. Brief facts necessary for the disposal of the instant appeal may first be noticed. The workman was employed by the Society as a Salesman on

19.1.1980. In a survey conducted by the officers of the Cooperative department it was concluded that the salesmen were in excess of the

sanctioned strength. The workman being the junior-most was issued a notice dated 10.2.1981 by the management proposing termination of his

services. Consequently his services were terminated on 10.3.1981. The workman impugned the action of the management in terminating his

services by filing CWP No. 742 of 1981 which was dismissed in limine on 11.3.1981. The workman then initiated proceedings under the Industrial

Disputes Act, 1947. It has been claimed that the dispute so raised was referred to the Labour Courts, Patiala as well as Ludhiana. References to

both the Courts were made by same endorsement i.e. ID/7/605-A/81/73352-56. A perusal of the record shows that both the Labour Courts

adjudicated upon the same controversy and arrived at divergent conclusions. The Labour Court, Ludhiana primarily basing its conclusion on the

statement of the workman arrived at the conclusion that the workman had received all his dues at the time of termination of his service and

therefore the action of the society in terminating his services was upheld. The proceedings before the Labour Court, Patiala were conducted

against the society ex-parte. Relying on the statement of the workman the Labour Court answered the reference on 18.10.1983 in favour of the

workman.

3. The primary contention of the society before the learned Single Judge was that decision rendered by Labour Court, Ludhiana was binding on all

the parties and that the subsequent award pronounced by the Labour Court, Patiala was inconsequential. It was also contended before the learned

Single Judge that it was not open to the "Society" to impugn the award of Labour Court, Patiala after a challenge raised by the society against the

aforesaid award before the Civil Court had been rejected. The society had also moved an application before the Labour Court, Patiala seeking

setting aside of the ex-parte award of the Labour Court Patiala dated 18.10.1983. The application however, was dismissed on 23.4.1986.

4. The "Society" challenged the order dated 23.4.1986 before the Civil Court, Patiala by filing a civil suit which was dismissed by the trial Court

on 3.12.1984. Against the order dated 3.12.1984, the society preferred an appeal which was partly allowed in as much as the Appellate Court

remanded the matter for re-adjudication to the trial Court. The trial Court on re-adjudication again dismissed the suit. The "Society" again

preferred an appeal which was dismissed on 25.7.1986. The "Society" then preferred R.S.A. No. 3373 of 1986 in this Court which was

dismissed as withdrawn on 16.2.1987. Learned Counsel for the workman contended before the learned Single Judge that the award of Labour

Court, Patiala dated 18.10.1983 had attained finality. This contention of the workman that the award of the Labour Court, Patiala had attained

finality was rejected by the learned Single Judge on the ground that vide order dated 23.4.1986, the Labour Court, Patiala had illegally declined to

set aside the ex-parte award dated 18.10.1983. The award dated 18.10.1983 infact had not been challenged by the "Society" before the Civil

Court. Learned Single Judge was further of the view that the award dated 08.06.1983 emerging out of reference dated 31.3.1981 culminated

before the Labour Court, Ludhiana after recording of evidence of the rival parties. The award was published in the Punjab Government Gazette

dated 23.9.1983. After publication of award the controversy raised by the workman initiated through demand notice came to be settled. At that

juncture it was imperative for the workman to inform the Labour Court, Patiala about the conclusion of the controversy and since the workman did

not bring this factual position to the notice of Labour Court, Patiala, it conducted ex-parte proceedings against the "Society" and finalized the

same. It is undisputed that reference to both the Labour Courts was made by a same endorsement number. On this issue, the learned Single Judge

has opined that reference was wrongly made to two courts as the establishment of the "Society" was located within the territorial jurisdiction of

Ludhiana as well as the fact that the Government made a reference to the Presiding Officer, Labour Court, Patiala are sufficient to conclude that

determination of the issue by the Labour Court, Ludhiana was right. The learned Single Judge opined that the issue was finally settled by the award

of Labour Court, Ludhiana which was to be accepted as the rightful decision. The learned single Judge further held that the workman had deceived

the Labour Court, Patiala by not disclosing to it the factum of determination of the controversy at the hands of the Labour Court, Ludhiana

although he had personal knowledge and notice thereof. The learned Single Judge thus concluded that order of the Labour Court, Patiala was

unfairly obtained by the workman. Aggrieved by the order of the learned Single Judge, the workman has approached this Court through the instant

appeal.

5. When the matter came up for consideration we had directed the learned State counsel to produce the original record so as to ascertain the fact

to which Court the reference was made by the State of Punjab.

6. Ms. Supdeeti Sharma, learned State counsel has placed on record D.O. letter dated 3.3.2009 (Mark "A") sent by Dr. Harish Nayyar, Deputy

Labour Commissioner, Punjab, Chandigarh stating that the case was referred for adjudication to the Labour Court, Patiala, keeping in view the

then jurisdiction of the said Labour Court. He has further pointed out that upto June, 1982 there were only four Labour Courts at Patiala,

Ludhiana, Jalandhar and Amritsar in the State and two new Labour Courts were established at Gurdaspur and Bhatinda vide notification dated

1.7.1983. The jurisdiction of the Labour Courts were then refixed. The whole district Ludhiana was allocated to Labour Court, Ludhiana and prior

to 1.7.1983 Ludhiana (Rural), Bhatinda, Faridkot and Ferozpur were attached with the Labour Court, Patiala. After re-fixation of jurisdiction, the

Labour Court, Patiala had transferred the records concerning the cases from District Ludhiana to the Labour Court at Ludhiana. The Assistant

Labour Commissioner (Circle VI), Ludhiana has also intimated that requisite record was not traced out from the Labour Court, Ludhiana as the

building had been shifted many times and old record was not available. We have closely examined document placed on record as Ex.D.1 before

the Labour Court, Ludhiana.

7. Mr. Dhiraj Chawla, learned Counsel for the workman has vehemently argued that principles of res-judicata would be attracted to the facts of

this case because once the award passed by the Labour Court, Patiala has been challenged in a civil suit filed by the petitioner-respondent which

has been dismissed then no fresh adjudication by the writ Court could be entertained. According to the learned Counsel the award dated

18.10.1983 passed by the Labour Court, Patiala had attained finality as the appeal was also dismissed and even RSA No. 3373 of 1986 filed by

the respondent was withdrawn. He has emphasized that the learned Single Judge could not have set aside the judgement and decree passed by the

Civil Court upholding the award dated 18.10.1983 passed by the Labour Court, Patiala because all those grounds which have been entertained by

the learned Single Judge for setting aside the award of the Labour Court, Patiala were available to the respondent-petitioner in the civil suit filed by

it.

8. Mr. Dhiraj Chawla has also contended that a perusal of document Ex.D.1 which is a government notification published in the Punjab

Government Gazette would categorically show that reference u/s 10(1)(c) of the Industrial Disputes Act, 1947 (for brevity "the Act") was made to

the Labour Court, Patiala and there is no reference made to the Labour Court, Ludhiana. Learned Counsel has submitted that u/s 10(1)(c) of the

Act reference could have been made to a Labour Court and at the time of making a reference the jurisdiction of Ludhiana (Rural), Bhatinda,

Faridkot and Ferozepur were given to the Labour Court, Patiala which were shifted later on w.e.f. 1.7.1983 when the jurisdiction even over

Ludhiana (Rural) was given to the Labour Court at Ludhiana.

9. Mr. G.C. Dhuriwala learned Counsel for the petitioner-respondent has, however, argued that power of the High Court over decisions of all

Courts and Tribunals under Articles 226/227 of the Constitution is all pervasive and could extend to correcting any mistakes in the judgement and

decree of the Civil Court. In that regard he has placed reliance on paras 79,91,93 and 99 of the Seven Judges Bench judgement of Hon"ble the

Supreme Court rendered in the case of L. Chandra Kumar Vs. Union of India and others, . He has further placed reliance on the judgements of

Hon"ble the Supreme Court in the cases of Dhondiba Malharro Naik v. Shriram Ramchandra Aindalwar 2004 (2) RCR (C) 78; State of Himachal

Pradesh v. Dhanwant Singh 2004 (2) RCR (C) 627 and Surya Dev Rai Vs. Ram Chander Rai and Others, . He has further submitted that the

appellant had earlier filed CWP No. 742 of 1981 which after notice of motion and filing of reply was dismissed by the Division Bench of this Court

and that no reference could have been sought to the Labour Court. Therefore, adjudication by the Labour Court of Patiala is without jurisdiction

and is hit by the principles of resjudiciata. In support of his submission, learned Counsel has placed reliance on the judgements in the cases of

Kapurthala Central Cooperative Bank Ltd. Kapurthala v. The State of Punjab and Ors. 1991 (1) PLR 632; General Manager, Punjab Roadways,

Amritsar and Anr. v. Dharam Singh and Anr. 1996 (2) PLR 374; Pondicherry Khadi and Village Industries Board v. P. Kulothangan and Anr.

2004 (2) SC PLR 131 and Mohinder Singh and Ors. v. State of Punjab and Anr. 2004 (2) PLR 396. He has then argued that the award of the

Labour Court could not be challenged before the Civil Court. According to the learned Counsel there is a complete bar on the jurisdiction of the

Civil Court to entertain any challenge to the award of the Labour Court. He has drawn our attention to the provisions of Section 17(2) of the Act

read with Section 9 of the Code of Civil Procedure, 1908 and argued that the Madras High Court in the case of A.K. Loganathan v. R. Beema

Rao 1980 (2) SLR 31 has opined that validity of the award cannot be challenged before the Labour Court and there is a total bar concerning

institution of a civil suit. In that regard, he has placed reliance on a Division Bench judgement of this Court in the case of Banarasi Dass v. State of

Haryana 1980 (1) SLR 355 and Single Bench judgement in the case of National Fertilizers Ltd. v. Ishar Singh 1991 (1) PLR 463. His last

submission is that there was active concealment on the part of the workman and he procured the award passed by the Labour Court, Patiala

knowing fully well that the Labour Court, Ludhiana had already decided against him and therefore he should be non suited on that ground as has

been held by this Court in the case of Gurmukh Singh v. State of Punjab 2000 (2) PLR 584 and Satya v. State of Haryana 2004 (3) PLR 368. He

has concluded by saying that according to the doctrine of merger the order of termination of the workman had merged with the order passed by

the Division Bench of this Court dismissing CWP No. 742 of 1981 preferred by the workman-respondent on 11.03.1981 and therefore without

successfully challenging the aforesaid order in Special Leave Petition, no reference could have been sought.

10. The short question which arise for consideration of this Court in the instant appeal is whether the award dated 18.10.1983 announced by the

Labour Court, Patiala could be challenged by the Society - the writ petitioner-respondent especially when it has remained unsuccessful in its

challenge to the ex-parte award before the Civil Court. It has come on record that the Society had filed a civil suit which was dismissed by the trial

Court on 03.12.1984. The first appeal before the Appellate Court was also preferred by the Society which at the first instance was party allowed

inasmuch as the Appellate Court had remanded the matter to the trial Court for re-adjudication. The trial Court again dismissed the suit on re-

adjudication and the appeal preferred against the order of the trial Court was dismissed on 25.07.1986. Even the Regular Second Appeal bearing

No. 3373 of 1986 filed by the Society in this Court u/s 100 C.P.C. was dismissed as withdrawn on 16.02.1987. It is further pertinent to notice

that after the dismissal of the suit even an application filed by the Society seeking setting aside of the award was dismissed by the Labour Court,

Patiala on 23.04.1986 with specific findings that the Society was duly served before passing an ex parte award. It is pertinent to notice that the

detailed order passed by the Civil Court on 14.01.1986 after the remand by the Appellate Court, the Civil Court had opined on three issues

namely (i) whether the award dated 18.10.1983 passed by the Labour Court, Patiala was null and void ? ; (ii) Whether the plaintiff (Society) is

entitled to injunction as prayed for?; (iii) Whether the Civil Court has no jurisdiction to entertain the suit? The Civil Court has recorded categorical

findings on issue No. 1 in paras 9 and 10 of its judgment which reads thus:

9. After going through the reference and the evidence discussed above, I have come to the conclusion that there is nothing wrong or illegal in the

impugned order dated 18.10.83 of the Ld. Presiding Officer, Labour Court, Patiala. In this connection, it may be stated that there is absolutely no

doubt that the Labour Court, Ludhiana, has determined the claim of the defendant by making the award before the decision of the Ld. Presiding

Officer, Labour Court, Patiala, and that award has also been published in the Punjab Government Gazette, but there is nothing on the record to

show that Labour Court Ludhiana had the jurisdiction to adjudicate upon the claim of the defendant. In this connection, it may be stated that a

Presiding Officer of a Labour Court cannot suo moto entertain any such claim. It can only enter upon a reference made to it only by the Labour

Commissioner, Punjab, for the adjudication of an Industrial Dispute referred to it u/s 10(1)(a)(c) of the Industrial Disputes Act, 1947.

10. There is nothing on the record to show that the Labour Commissioner, Punjab, had referred any such Industrial Dispute to the Labour Court,

Ludhiana. Even the documents produced by the plaintiff show that the reference was to the Presiding Officer of the Labour Court, Patiala, and not

to the Presiding Officer, Labour Court, Ludhiana. The contention of the plaintiff that such a reference was transferred by the Labour Court, Patiala,

to the Labour Court, Ludhiana, does not even find any corroboration from any thing on the record. Therefore, the circumstances under which the

Ld. Presiding Officer of the Labour Court, Ludhiana, adjudicated upon the claim of the defendant are obscure. Consequently the award of the Ld.

Presiding Officer of the Labour Court Ludhiana was without jurisdiction. Therefore, the award of the Ld. Presiding Officer, Labour Court,

Ludhiana, does not stand in the way of the legality of the award by the Ld. Presiding Officer of the Labour Court, Patiala. It was to the Labour

Court, Patiala, that this reference was made by the Labour Commissioner and that it was the Labour Court, Patiala, which had the jurisdiction to

enter upon the reference made by the Labour Commissioner, Punjab, Chandigarh, and not the Labour Court, Ludhiana. Therefore, I do not find

any infirmity in the award dated 18.10.83 of the Labour Court, Patiala.

11. There are thus categorical finding that nothing was placed on the record to show that any reference was made u/s 10(1)(c) of the Act to the

Labour Court, Ludhiana conferring jurisdiction to adjudicate the claim between the parties. Whereas Ex.D-1 was a copy of the reference made by

the Labour Commissioner, Punjab, Chandigarh u/s 10(1)(c) of the Act showing that reference was made to the Labour Court, Patiala.

12. The aforesaid findings of the Civil Court have been upheld on appeal preferred by the Society u/s 96 of C.P.C. The categorical findings again

are that no reference to the Labour Court, Ludhiana was ever made. In penultimate para 6 of its judgment, the following view has been expressed

by Appellate Court:

6. The learned Counsel for the society has argued in vain that Ludhiana Court had jurisdiction to pass the award even if no specific reference as

contemplated u/s 10(i)(c) of the Industrial Disputes Act was made. Admittedly, it is not proved on file that the said reference was transferred from

the Labour Court, Patiala to the Labour Court, Ludhiana, at any stage. It is also well settled that the cognizance of the dispute raised by the

defendant-respondent could not be taken by any Labour Court without making reference by the Government. That being so, when no reference

had been made to Labour Court, Ludhiana, nor it is proved that the reference was transferred to it, under orders of any competent authority, the

award given by the Labour Court, Ludhiana, would be without jurisdiction. On the other hand, Government reference to Labour Court, Patiala, is

admitted on the basis of which it had taken up the dispute for giving its award. It means that the award given by the Labour Court, Patiala, was

valid in the eyes of law.

13. The matter does not rest there as the Society filed an appeal before this Court u/s 100 C.P.C. which was dismissed as withdrawn. With the

dismissal of R.S.A. No. 3373 of 1986 on 16.02.1987, the award passed by the Labour Court, Patiala attained finality and all the challenges to the

award dated 18.10.1983 stood defeated.

14. In order to satisfy ourselves, we had asked the learned State counsel to produce the original records so as to ascertain whether reference was

made by the Labour Commissioner to the Labour Court, Patiala or to the Labour Court, Ludhiana. Although the record could not be produced

being old but the Deputy Labour Commissioner, Punjab has sent a letter dated 03.03.2009 (Mark-"A"). A copy of the letter was also supplied to

the counsel for the Society. The letter reveals that the jurisdiction of the Labour Court, Ludhiana (Rural) in the year, 1982 were with the Labour

Court, Patiala and the reference was made only to the Labour Court at Patiala. It further clarifies that vide notification dated 01.07.1983, the

jurisdiction of the Labour Court was refixed and it was thereafter that the Labour Court at Patiala lost jurisdiction which was vested in the Labour

Court, Ludhiana. In the present case, admittedly the reference was made to the Labour Court on 07.12.1982. According to the letter of the

Deputy Labour Commissioner, Punjab, Chandigarh (Mark "A") at that time the Labour Court, Patiala alone has the jurisdiction in respect of the

dispute relating to Ludhiana (Rural). Accordingly, the award was announced by the Labour Court, Patiala on 18.10.1983. Therefore, the findings

recorded by the Civil Court after the remand vide its judgment and decree dated 14.01.1986 in Civil Suit No. 582, dated 10.09.1984 (R-1) are

absolutely correct in law and no doubt could be entertained with regard to the correctness of those findings.

15. The other important issue decided by the Civil Court in its judgment and decree dated 14.01.1986 was whether the Civil Court had

jurisdiction to entertain the suit. The aforesaid issue was raised by the Workman-appellant. The Civil Court held that it is function of the Civil Court

to determine whether a special Tribunal created by an Act has acted within its jurisdiction or not. Accordingly, it was found that the Civil Court had

the jurisdiction and the aforesaid view was upheld by the learned Ist Appellate Court which also had attained finality as R.S.A. No. 3373 of 1986

filed against that judgment was dismissed as withdrawn on 16.02.1987.

16. The aforesaid narration of facts shows that the "Society" could not once again challenge the award of the Labour Court, Patiala dated

18.10.1983 by filing instant petition under Article 226 of the Constitution. If the Society is permitted to challenge the award by filing a writ petition

under Article 226 of the Constitution, which has already been upheld by the Civil Court upto the second appellate stage u/s 100 C.P.C. then it

would result into disastrous result. Such a permission would result in never ending litigation. The question had arisen before the 9-Judge Bench of

the Hon"ble the Supreme Court in the case of Naresh Shridhar Mirajkar v. State of Maharashtra and Anr. AIR 1967 Supreme Court 1. In that

case, a libel suit on the original side of the High Court of Bombay was going on between one Mr. Krishnaraja M.D. Thakersey and Mr. R.K.

Karanjia, Editor of English weekly "Blitz". On an application filed by a witness to withhold his evidence from newspaper reporters on the ground

that publication of reports of his earlier deposition had caused loss to him in his business, the trial Judge orally ordered that the deposition of the

witness should not be reported in the newspapers. A newspaper "The Blitz" had been reporting verbatim the trial and brief accounts were also

being published by the other newspapers. The oral order passed by the learned Presiding Judge was challenged in four writ petitions under Article

32 of the Constitution on the ground that the fundamental rights granted by the Constitution under Article 19(1)(a) of those four petitioners had

been violated. Hon"ble the Supreme Court by majority of eight Hon"ble Judges held that the order passed by the trial Judge could not be

questioned in a writ petition filed under Article 32 of the Constitution on the ground that it adversely affect the fundamental rights of the petitioners

and the order should have been challenged by filing an appeal under Article 136 of the Constitution. The view of Hon"ble the Supreme Court is

discernible from paras 38 and 39 of the judgment, which reads thus:

38. The argument that the impugned order affects the fundamental rights of the petitioners under Article 19(1), is based on the complete

misconception about the true nature and character of judicial process and of judicial decisions. When a Judge deals with matters brought before

him for his adjudication, he first decides questions of fact on which the parties are at issue, and then applies the relevant law to the said facts.

Whether the findings of fact recorded by the Judge are right or wrong, and whether the conclusion of law drawn by him suffers from any infirmity,

can be considered and decided if the party aggrieved by the decision of the Judge takes the matter up before the appellate Court. But it is

singularly inappropriate to assume that a judicial decision pronounced by a Judge of competent jurisdiction in or in relation to a matter brought

before him for adjudication can affect the fundamental rights of the citizens under Article 19(1). What the judicial decision purports to do is to

decide the controversy between the parties brought before the Court and nothing more. If this basic and essential aspect of the judicial process is

borne in mind it would be plain that the judicial verdict pronounced by Court in or in relation to a matter brought before it for its decision cannot be

said to affect the fundamental rights of citizens under Article 19(1).

39. ...Just as an order passed by the Court on the merits of the dispute before it can be challenged only in appeal and cannot be said to contravene

the fundamental rights of the litigants before the Court so could the impugned order be challenged in appeal under Article 136 of the Constitution,

but it cannot be said to affect the fundamental rights of the petitioners. The character of the judicial order remains the same whether it is passed in a

matter directly in issue between the parties or it passed incidentally to make the adjudication of the dispute between the parties fair and effective.

On this view of the matter, it seems to us that the whole attack against the impugned order based on the assumption that it infringes the petitioners"

fundamental rights under Article 19(1), must fail (emphasis added).

17. When the principles laid down in the aforesaid paras are applied to the facts of the present case it becomes evident that the award of the

Labour Court, Patiala dated 18.10.1983 had attained finality. It was challenged by the "Society" in a Civil Suit No. 582, dated 10.09.1984. The

suit was dismissed on 14.01.1986. The question of jurisdiction of the Civil Court to entertain the suit was also decided holding that the Civil Court

had the jurisdiction. As already noticed in para 6 of the judgment, the first appellate Court recorded a categorical finding that no valid reference

was made to the Labour Court, Ludhiana and that the award passed by the Labour Court, Patiala did not suffer from any legal infirmity. The

aforesaid findings were tested by the Society-respondent in RSA No. 3373 of 1986 filed u/s 100 of the Code of Civil Procedure, 1908 which was

dismissed as withdrawn on 16.02.1987. The only remedy available to the Society-respondent was to challenge the order passed by this Court in

RSA No. 3373 of 1986 by filing a Special Leave Petition. The irresistible conclusion is that the order passed by the Civil Court had attained

finality upto appellate jurisdiction of this Court. Therefore, the parallel proceedings under Article 226 of the Constitution to challenge the award

dated 18.10.1983 would not be competent. The judgment and decree of the Civil Court could not be set aside in exercise of jurisdiction under

Article 226 of the Constitution. Therefore with utmost deference to the learned Single Judge we are of the considered view that a jurisdictional

error has crept in entertaining the writ petition at the instance of the "Society" which has resulted in setting aside of judgment and decree of the Civil

Court along with award dated 18.10.1983.

18. We are further of the view that the principles of res judicata enshrined u/s 11 of the Code would also be applicable to the facts of the present

case because the issue of legal validity of the award between the same parties stand already adjudicated in the civil suit which could not be subject

matter of adjudication once again by filing a writ petition under Article 226 of the Constitution. Such a bar has also been imposed by Rule 32 of the

Writ Jurisdiction (Punjab and Haryana) Rules, 1976. A Five Judges Bench of this Court in the case of Teja Singh v. Union Territory, Chandigarh

1982 PLR 160 has considered the aforesaid Rule in some details. Therefore, no writ petition for setting aside the judgment and decree passed by

the Civil Court which has attained finality by dismissal of Regular Second Appeal u/s 100 of the Code, could be entertained. The remedy of appeal

or the SLP before the Hon"ble Supreme Court alone would be competent. On that score also the view taken by the learned Single Judge is not

sustainable and is thus liable to be set aside.

19. The argument of Mr. Dhuriwala, learned Counsel for the Society that the Civil Court did not have any jurisdiction to determine the legality of

the award of the Labour Court, has not impressed us, because this argument would boomrang on the Society for the reason that it was the Society

which has challenged the award of the Labour Court, Patiala dated 18.10.1983 before the Civil Court and not the respondent-workman.

Moreover, the question of jurisdiction of the Labour Court, Patiala, raised by the Society itself has been decided against the Society. The present

case is a classical example of misuse of the process of the Court at the instance of the Society and therefore, the same argument which has been

advanced before the Civil Court and decided against the Society could not once again be raised by it by filing a writ petition under Article 226 of

the Constitution. The judgment of the learned single Judge of Madras High Court in A.K. Loganathan's case (supra) would also not come to the

rescue of the Society because it was the Society who had challenged the award dated 18.10.1983 before the Civil Court and it cannot now

contend that the Civil Court did not have jurisdiction. Even otherwise Section 17(2) of the Act as interpreted by the learned single Judge in A.K.

Loganathan's case (supra) does not lay down any principle of law of universal application that in no case the Civil Court could adjudicate on the

validity of an award passed by the Labour Court. Section 17(2) of the Act seeks to oust the jurisdiction of the Civil Court to interfere with the

award given by the Tribunal. But in cases where awards have been found null and void, Civil Courts have set aside such award on the rationale

that such like awards are not the award as contemplated by the Act. Therefore, the provision of Section 17 of the Act-making such awards final

and ousting the jurisdiction of the Civil Courts-would not simply apply to them. In that regard reliance may be placed on the judgment of Hon"ble

the Supreme Court in case of Asbestos Cement Ltd. Vs. P.D. Sawarkar and Others, and Rajasthan State Road Transport Corporation v. Bal

Mukund Bairwa 2009 (2) SCT 244. We do not feel the necessity of dealing with some other judgments cited at the bar because they do not deal

with the issue which is required to be determined in this appeal.

For the reasons aforementioned, this appeal succeeds. The judgment of the learned Single Judge dated 27.04.2005 in the aforesaid writ petition is

hereby set aside. The writ petition filed by the Society is dismissed upholding the award dated 18.10.1983 passed by the Labour Court, Patiala

and as upheld by the Civil Court as well as by the Ist Appellate Court. The Society is saddled with cost of Rs. 10,000/-.