
(2009) 2 JCR 337

Jharkhand High Court

Case No: None

Security and
Intelligence Services
(India) Ltd. and Another

APPELLANT

Vs

Union of India (UOI)
and Others

RESPONDENT

Date of Decision: March 3, 2009

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 " Section 12, 2, 23, 24

Citation: (2009) 2 JCR 337

Hon'ble Judges: Ajit Kumar Sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Ajit Kumar Sinha, J.

This writ petition has been preferred for issuance of an appropriate writ, order or direction in the nature of a writ of

certiorari for quashing the communication dated 14/19.9.1998 issued by the Labour Enforcement Officer (Central), Hazaribagh whereby and

whereunder the petitioners have been requested to rectify the irregularities mentioned in the alleged inspection report of the said Labour

Enforcement Officer and also to show-cause as to. why legal action u/s 23 and/or 24 of the Contract Labour (Regulation and Abolition) Act. 1970

(hereinafter referred as the said ""Act"" for the sake of brevity) should not be taken against them for the alleged irregularities mentioned in the said

inspection report and further for issuance of a writ in the nature of writ of prohibition or any other appropriate writ, order or direction restraining

the respondents from assuming jurisdiction and taking any action against the petitioners under provisions of Section 23 and/or 24 of the said Act,

with a declaration that the provisions of the said Act are not applicable in the case of the petitioners as they are not contractors within the meaning

of Section 2, Sub-section (1)(c) of the said act.

2. The main contention raised by the counsel for the petitioners is as to whether impugned notices issued is devoid of jurisdiction and unsustainable

in the eyes of law. The point in issue for consideration of this Court is as to whether the provision of contract labour is applicable in the instant

case.

3. The petitioner herein is a Security Agency who directly employs Security Personnel for deployment of the same and thus, he is the employer and

does not use any intermediary.

4. Under the definition clause of the Contract Labour (Regulation and Abolition) Act, 1970 Section 2(b) (c) and (g) defines workman, contractor

and principal employer as under:

2(b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or

in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

2(c) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere

supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the

establishment and includes a sub-contractor.

2(g) "principal employer" means:

(i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other office as the

Government or the local authority, as the case may be, may specify in this behalf,

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the Manager of the factory under the Factories Act,

1948 (63 of 1948), the person so named.

(iii) in a mine, the owner or agent of the mine and where a person has been named as the Manager of the mine, the person so named,

(iv) in any other establishment, any person responsible for the supervision and control of the establishment.

5. On reading the aforesaid it will be clear that a workman will be deemed to be employee as contract labour when he is hired through a contractor

to produce given result for the establishment through contract labour or through contractor who supply contract labour for any work of the

establishment for the principal employer and in case if the aforesaid conditions as stipulated in the definition clause is fulfilled then Section 12

mandates that any contractor to whom the act applies shall undertake or exclude any work through the contract labour except under and in

accordance with a licence. In the instant case the admitted position is that there is neither any contractor nor there is any contract labour working

for any establishment for or on behalf of principal employer. It is a case of a direct relation of a private limited company who is employer and its

employee and thus the notices issued for initiating action u/s 23 read with 24 of the Contract Labour (Regulation and Abolition) Act, 1970 is

without any authority of law and is devoid of jurisdiction.

6. The learned Counsel for the respondents Mr. Mokhtar Khan fairly submits that the deployment is made directly by the petitioner company of its

own employee and thus there was no need for taking licence u/s 12(1) of the Contract Labour (Regulation and Abolition) Act, 1970.

7. Considering the aforesaid facts and circumstances and in view of the admitted position that there is no contract labour and petitioner being an

employer of the security personnel/workmen who are deputed for security work, there is no application of the provisions of Contract Labour Act

and the impugned order/communication dated 14/19.9.1998 being devoid of any jurisdiction is accordingly quashed.

This writ petition is accordingly allowed without any order as to cost.