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Laxmi Narayan Shastri Vs Shri Sanatan Dharam Sabha Laxmi Narayan Temple Trust

Writ Petition (C) 3426 of 2011

Court: Delhi High Court

Date of Decision: May 20, 2011

Acts Referred:
Industrial Disputes Act, 1947 â€" Section 2#Limitation Act, 1963 â€" Section 14

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: D. Moitra, R.D. Sharma and Rajat Sharma, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Sahai Endlaw, J.
The petition impugns the order dated 29th March, 2011 of the Industrial Adjudicator holding the Petitioner to be

not a workman and the consequent award dated 8th April, 2011 that the dispute raised by the Petitioner before the Industrial Adjudicator was

thus not maintainable.

2. The Petitioner claims to have been the Head Pujari of the famous Birla Mandir at Mandir Marg, New Delhi. The counsel for the Petitioner

during the hearing has invited attention to the report dated 3rd August, 1981 at the time of appointment of the Petitioner recording that the

Petitioner has passed Shastri education and is also an Acharya. The said document rather shows the high qualifications of the Petitioner in the field

of priesthood. The Industrial Adjudicator has premised the orders/award on the Sai Bhakta Samaj (Regd.) v. Durga Prasad ILR 2006 1241

where a Single Judge of this Court held that a Pujari in a temple cannot be a workman. The Industrial Adjudicator has also relied on a judgment of

the Kerala High Court in A. Kesava Bhatt Vs. Sree Ram Ambalam Trust and Another, also holding that a archaka or a priest in a temple is not a

workman and cannot invoke the jurisdiction of the Labour Court.

3. Not disagreeing with the view aforesaid and propriety demanding that the same be followed, it has been enquired from the counsel for the

Petitioner as to how the Petitioner''s case is different from that in Sai Bhakta Samaj (Regd.) (supra). The said judgment is categorical. Though the

counsel for the Petitioner has not been able to distinguish his case from that in Sai Bhakta Samaj (Regd.) but has invited attention to the judgment

of the Bombay High Court in Shri Cutchi Visa Oswal Derawasi Jain Mahajan Vs. B.D. Borude, I.T. Maharashtra and others, . However the

Bombay High Court in that case was concerned with the question whether the ""undertaking"" of the society in that case was an industry within the

meaning of Section 2(j) of the ID Act or not. In that context the Bombay High Court refused to accede to the submission that since the

society/trust was running the temple and people visit the temple to secure spiritual benefits, and not material benefits and was thus not an ""industry

and held that since the society/trust in that case was carrying out commercial activities by letting out godowns, halls, shops etc., it could not be said

that the society was merely providing spiritual benefits and not material benefits. Accordingly, the society was held to be an industry.

4. The counsel for the Petitioner contends that some shops have been carved out of Birla Mandir also and being used for sale of religious books,

flowers, ATM of banks and handicraft shops. It is also contended that the Petitioner was being paid provident fund though through Birla Brothers

Pvt. Ltd. Provident Fund Institution.

5. I may notice that Sai Bhakta Samaj (Regd.) also though holding a Pujari to be not a workman held the temple to be otherwise an industry qua

the chowkidar employed therein. It will thus be seen that the Mumbai High Court was not directly faced with the question of whether the Pujari is a

workman or not. Even though I entertain doubts as to whether a temple can be said to be an ""industry"" but in the present case when the Petitioner

claims to have been employed as a Head Priest and which can by no means be said to be a small position and the counsel for the Petitioner also

admits that the Petitioner had assistants under/with him, no reason is found to entertain the petition, the question raised being fully covered by Sai

Bhakta Samaj (Regd.) aforesaid.

6. Though the counsel for the Petitioner has raised several other grounds also as to the illegality of the termination of the Petitioner but in view of

the aforesaid there is no need to go into those and the Petitioner would be at liberty to raise the same before the appropriate foray. There is no

merit in the petition, the same is dismissed. No order as to costs.

7. The counsel for the Petitioner seeks a direction that the alternative remedy pursued by the Petitioner would not be barred owing to limitation.

The only direction which can be given is that upon the Petitioner applying u/s 14 of the Limitation Act, the same shall be sympathetically

considered.

CM No. 7145/2011 (for exemption).

Allowed, subject to just exceptions.