



Mohd. Islam vs. State

Exe. Petition No. 17 of 2023

25.09.2023 Present: Mr. Abhyendra Gupta, Advocate for the petitioner.
Mr. Ramakant Sharma, Additional Advocate General, for the respondents.

Learned Additional Advocate General submits that in present case, matter has been processed for filing SLP in the Supreme Court and therefore, he seeks adjournment.

2 It is also relevant to record that the issue involved in present case also stands settled in Ravi Kumar's case, wherein SLP No. 25412 of 2010, preferred by the State, was dismissed by the Supreme Court on 15.1.2015, vide common judgment dated 15.01.2015 passed in SLP(C) No. 33570 of 2010, State of H.P. vs. Pritam Singh and connected matters, affirming the judgment dated 14.12.2009 passed in CWP 4489 of 2009 titled Ravi Kumar vs. State of HP.

3. Thereafter, the issue was re-agitated by State in Ashwani Kumar's case and in that case also, the judgment dated 10.05.2018 passed in CWP No. 3111 of 2016 titled State vs. Ashwani Kumar was affirmed by the Supreme Court by dismissing Civil Appeal No. 5753 of 2019 preferred by State on 22.7.2019, and in that case it was further clarified that for conferring work charge status upon daily wage employees, existence of work charge establishment is not a necessary pre-requisite.

4. The verdict on the issue has also been reaffirmed in LPA No. 165 of 2021 titled Sate vs. Surajmani, decided on 12.1.2023, by a

Division Bench of this High Court. However, State is agitating the same issue again in other round of litigation by filing SLP in Surajmani's case in the Supreme Court. There is no stay granted by the Supreme Court.

5. In a matter, to deprecate the practice of filing such frivolous petitions, after issue has attained finality before the Apex Court, the Supreme Court vide order dated 6.9.2023 in Special Leave Petition (Civil) Dairy No.30326 of 2023 has imposed Rs. 5 lacs as costs upon the State by observing as follows:-

“5. Merely because the officers of the State Government, do not have to pay for the litigation from their own pocket, they cannot be permitted to file such frivolous petitions and harass the landowners, who have already lost their valuable land.

6. The special leave petitions are, therefore, dismissed with cost quantified at Rs. 5,00,000/- (Rupees Five Lakhs only) to be paid within four weeks from the date of this order. The cost of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) shall be deposited in the Supreme Court Advocates-on-Record Association to be used for the purpose of Library and the cost of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) shall be deposited with the supreme Court Bar Association Advocates Welfare Fund.”

6 The State is expected to behave as a Model Employer as well as protector and custodian of rights of employees/citizens but not as a chronic litigant causing unnecessary burden upon Courts.

7 With aforesaid observations, on request of learned Additional Advocate General, before passing an adverse order, further

time is granted to ensure compliance and submit the compliance report/affidavit.

List for consideration on **9th October, 2023.**

(Vivek Singh Thakur)
Judge

September 25, 2023
(ms)

(Bipin C. Negi)
Judge