

CASE NO.:
Appeal (civil) 7388-7390 of 2001

PETITIONER:
MANAGEMENT OF M/S MYSORE STRUCTURALS LTD. & ORS.

Vs.

RESPONDENT:
STATE OF KARNATAKA & ANR.

DATE OF JUDGMENT: 30/10/2001

BENCH:
D.P. Mohapatra & K.G. Balakrishnan

JUDGMENT:

K.G. BALAKRISHNAN, J.

Leave granted.

Judgment of the Division Bench of the Karnataka High Court is challenged in these appeals. The first appellant is a public limited company and appellants 2-5 are Directors thereof. The appellants challenged the order passed under Section 34 of the Industrial Disputes Act, 1947 [for short, the Act] whereby the first respondent gave sanction for prosecuting the appellants for alleged violation of the provisions contained in the Act. By judgment dated 26.3.1998 the learned Single Judge declined to interfere with the order and the judgment of the learned Single Judge was subsequently confirmed by the Division Bench.

Relevant facts for the purpose of these appeals are thus. Services of three workmen, who were the employees of the first appellant-company were terminated by the appellant company and those workmen raised an industrial dispute. An award was passed in favour of the workmen and the appellant-company was directed to reinstate them with continuity of service and full back-wages. The appellant-company challenged the award before the High Court of Karnataka by filing writ petition, which was later dismissed. The award passed by the Labour Court became final. The appellant-company, however, did not implement the award. Initially, the workmen filed an application for contempt of court before the High Court. That application was rejected by the High Court with the observation that the remedy under Section 29 or Section 33C of the Act was available to the workmen. Thereupon, the second respondent-Workers Union sought sanction of the Government for prosecution of the appellants. The Labour Commissioner exercising power under Section 34 of the Act gave sanction to the Workers Union to launch proceedings against the management of the first appellant.

As pointed out earlier, the two courts have found that the order passed by the Labour Commissioner is not vitiated by any illegality. The appellants contended before us that the company had already been closed as early as 31.8.1982 and the factory license was surrendered. It has also been urged before us that the land owned by the company was donated to a charitable trust and that in this view of the matter the appellants are not in a position to implement the award passed by the Labour Court. It was argued that the sanction for prosecution was given

without considering these material facts.

It is true that the authorities while granting sanction for prosecution should take into account all material facts, which are relevant for the purpose of such decision. This Court in *Feroz Din & Ors. vs. State of West Bengal* AIR 1960 SC 363, relying on an earlier decision reported in *Gokulchand Dwarakadas vs. The King* 75 Indian Appeals 30 = AIR 1948 PC 82, held as under :

The Judicial Committee in the case above-mentioned itself observed that the sanction would be good if it was proved by the evidence that it has been granted after all the necessary facts had been placed before the sanctioning authority though these facts might not have been stated on the face of the sanction itself. It therefore seems to us that the sanction in the present case is unobjectionable.

In the instant case also, the sanction was granted for prosecution after taking all relevant facts into consideration. We do not propose to go into the arguments advanced before us as any consideration of these contentions may eventually put fetters on the defence that may be taken by the appellants. Whether the appellants were in a position or whether it was impossible for them to grant relief to the workmen as directed by the Labour court in the award would necessarily be a matter for consideration by the court that would be seized of the proceedings.

As observed by this Court in *Raj Kumar Gupta vs. Lt. Governor, Delhi & Ors.* (1997) 1 SCC 556, the provisions of Section 34 of the Act are in the nature of a limitation on the entitlement of a workman or a trade union or an employer to complain of offences under the Act. It was pointed out that they should not, in the public interest, be permitted to make frivolous, vexatious or otherwise patently untenable complaints, and to this end Section 34 requires that no complaint shall be taken cognizance of unless it is made with the authorization of the appropriate Govt.

The order passed by the Labour Court cannot be said to be an illegal exercise of power. The authority was prima facie satisfied that there was violation of the provisions contained in the Act. The award passed by the Labour Court has become final and the remedy available to the workmen is under Section 29 of the Act. As for the appellants, it is open to them to raise all these contentions in their defence in the proceedings launched against them as a consequence of grant of sanction under Section 34 of the Act. Without prejudice to the right of the appellants to raise such contentions, we dispose of these appeals. It is made clear that the observations made by the High Court would not stand in the way for raising such contentions.

Parties to bear their own costs.

.....J
(D.P. Mohapatra)

.....J
(K.G. Balakrishnan)

October 30, 2001.

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JUDIS