

MADHYA PRADESH HIGH COURT

Sagar Motor Transport Karmchari Union

Vs.

Amar Kamgar

Misc. Petn. No. 376 of 1966
(P.V. Dixit, C.J. and G.P. Singh, J.)

14.08.1968

JUDGMENT

Dixit, C.J.

1. By this application under Articles 226 and 227 of the Constitution, the petitioner seeks a writ of certiorari for quashing a determination of the Presiding Officer of the Labor Court, Jabalpur, holding that the references of two disputes made to the Labor Court by the State Government under Section 10 (1) of the Industrial Disputes Act, 1947, are illegal and without jurisdiction.

2. The matter arises thus. Two persons, Ramdas and Abdul Latif, were in the employment of the non-applicant No. 1, the Amar Kamgar Passenger Transport Company Co-operative Society, Sagar, registered as a Co-operative Society under the M. P. Co-operative Societies Act, 1960, (hereinafter called the Act). The services of these two employees were terminated by the respondent- Society. The two employees and the petitioner, a union of employees engaged in motor transport industry at Sagar, feeling aggrieved by the action of the respondent-Society in terminating the services of Ramdas and Abdul Latif, raised a dispute. Ultimately in June 1965 the Government referred the dispute to the Labor Court for adjudication. The dispute referred for adjudication in the case of Abdul Latif was –

"Whether there exists a case for reinstatement of Shri Abdul Latif son of Abdul Rahim Driver with back wages? If not, the relief to which he is entitled?"

A similar dispute was referred to the Labor Court for adjudication in the case of Ramdas.

3. Before the Presiding Officer of the Labor Court, the respondent-Society raised the preliminary objection that the Government had no power to refer the dispute under Section 10 of the Industrial Disputes Act, 1947, inasmuch as the disputes about the termination of services of Abdul Latif and Ramdas and their reinstatement were one which under Section 55 (2) of the Act the Registrar of Co-operative Societies or any officer appointed by him, not below the rank of Assistant Registrar, could alone decide. This objection was upheld by the Presiding Officer who accordingly refused to adjudicate upon the disputes referred to him.

4. Having heard learned counsel for the parties, we have formed the opinion that this application must be dismissed. The M. P. Co-operative Societies Act, 1960, was enacted in 1960. It received the assent of the President on 28th April, 1961. The assent was first published in the Madhya Pradesh Gazette on 12th May 1961. That Act came into force on 15th May 1962. The M. P. Co-operative Societies Act, 1960, is "an Act to consolidate and amend the laws relating to co-operative societies in Madhya Pradesh."

Section 55 (2) of the Act runs as follows –

"55. (2) Where a dispute Including a dispute regarding terms of employment, working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him, not below the rank of Assistant Registrar, shall decide the dispute and his decision shall be binding on the society and its employees."

The language of this provision is clear enough to show that under the Act, which is a special enactment dealing with the special subject of co-operative societies, a dispute with regard to termination of services of an employee of a co-operative society can be decided only by the Registrar or any officer appointed by him, not below the rank of Assistant Registrar. Section 55 (2) contains a special provision for adjudication of disputes between a co- operative society and its employees regarding terms of employment, working conditions and disciplinary action. It is no doubt true that the definition of "industrial dispute" given in section 2 (k) of the Industrial Disputes Act, 1947, is wide enough to include disputes between a co-operative society and its employees regarding the terms of employment, working conditions and disciplinary

action. The Industrial Disputes Act, 1947, is also a special enactment dealing with the special subject of industrial disputes and their adjudication.

But whereas the Industrial Disputes Act, 1947, deals generally with industrial disputes arising between "employers" and "employees" as defined in that Act, section 55 (2) of the M. P. Co-operative Societies Act is concerned only with the adjudication of disputes between a co-operative society and its employees. There is no provision in the Industrial Disputes Act, 1947, that disputes arising between a body or a society governed by a special enactment and its employees, also governed by that special enactment, with regard to terms of employment, working conditions and disciplinary action, shall be adjudicated upon in accordance with the Industrial Disputes Act, 1947, notwithstanding the fact that a special provision has been made for adjudication of those disputes in the special enactment regulating the society or body and its employees.

5. There is thus a conflict between the Industrial Disputes Act, 1947, a Central Law, and the M. P. Co-operative Societies Act, 1960, a law by the State in regard to the adjudication of disputes between a co-operative society and its employees regarding terms of employment, working conditions and disciplinary action. But as "industrial and Labor disputes" is one of the matters enumerated in the Concurrent List and the M. P. Co-operative Societies Act, 1960, received the assent of the President, section 55 (2) of the Act must prevail in the State over the provisions of the Industrial Disputes Act, 1947, in regard to disputes between a co-operative society and its employees regarding terms of employment, working conditions and disciplinary action. This is clear from article 254 (2) of the Constitution.

6. Learned counsel referred us to the decisions in *Co-op. Milk Societies Union v. W. B. State*,¹ and *Jullundur T. C. Society v. Punjab Society*,² where it has been held that the provisions of the Bengal Co-operative Societies Act, 1940, and the Punjab Co-operative Societies Act, 1955, have to yield to the provisions of the Industrial Disputes Act, 1947. This conclusion of the Calcutta and Punjab High Courts proceeded on the reasoning that the Industrial Disputes Act, 1947, was a special enactment dealing with the special subject of industrial disputes and the relevant Co-operative Societies Act was, on the other hand, a general enactment which must yield to the special provisions of the Industrial Disputes Act, 1947. It is not necessary to examine this reasoning. It is sufficient to point out that section 55 (2) of the M. P. Co-operative Societies Act, 1960, and the material sections of the Bengal Co-operative Societies Act, 1940, and

the Punjab Cooperative Societies Act, 1955, differ toto coelo and thus render the two decisions cited on behalf of the petitioner altogether inapplicable in the present case. In these Acts there is no provision analogous to section 55 (2) of the Local Act. It may, however, be pointed out that both under the Bengal Co-operative Societies Act and the Punjab Co-operative Societies Act a dispute regarding disciplinary action taken by a co-operative society against its employees is expressly excluded from the purview of the Registrar's jurisdiction.

7. Learned counsel also urged that section 93 of the Act, which said that certain Acts including the M. P. Industrial Relations Act, 1960, shall not apply to a society registered under the Act, made no mention whatsoever, of the Industrial Disputes Act, 1947, and that, therefore, it must be taken that the Act of 1947 would apply to a co-operative society. We are unable to accept this contention. The omission of any reference in section to the Industrial Disputes Act, 1947, cannot be read as a positive direction that the Industrial Disputes Act, 1947, would apply to a society registered under the Act, even though that Act, as pointed out earlier, does not regulate adjudication of disputes between a co-operative society and its employees regarding terms of employment, working conditions and disciplinary action. On the other hand, the provision in section 93 of the Act that the M. P. Industrial Relations Act, 1960, shall not apply to a society registered under the Act only emphasizes the fact that a dispute falling under section 55 (2) of the Act can be decided by the authorities pointed out therein even though the dispute may be capable of adjudication under the M. P. Industrial Relations Act, 1960, as an industrial dispute.

8. For all these reasons, our conclusion is that the Presiding Officer of the Labor Court, Jabalpur, rightly held that the references made to him under section 10 (1) of the Industrial Disputes Act, 1947, were illegal. This petition is, therefore, dismissed with costs of the respondent No. 1. Counsels fee is fixed at Rs. 75/-. The outstanding amount of security deposit, if any after deduction of costs, shall be refunded to the petitioner.

Petition dismissed.

Cases Referred.

1. AIR 1958 Cal 373

2. AIR 1959 Pun 34