

Heard arguments.

Learned counsel for the respondent submits that in the very reference by the counsel questioning the dismissal of the petition, it is stated that the petitioner was working as a Supervisor. The order of reference also shows the designation as Supervisor. Therefore, the petitioner is not a workman under section 2 (s) of I.D. Act, 1947 and as such the present petition is not maintainable.

In support of his submission learned counsel for the respondent has relied upon the following citation in the case of Karnataka State Road Transport Corporation Vs. Udaneshwara Prasad Adult rendered by the Hon'ble Ms. Justice Jyoti Mulimani in writ petition No.46617/2019 (L-KSRTC).

On the contrary learned counsel for the petitioner submits that the issue as to whether the petitioner is a workman within the meaning of section 2(s) of I.D.Act, 1947 mixed question of law and fact especially when the petitioner has disputed the assertion of the management that the petitioner is not a workman. In support of his submission learned counsel for the petitioner has relied upon following citation:

In the case of D.P. Maheshwari Vs. Delhi Administration and others passed in civil appeal No.3844 of 1983.

I have perused the judgments relied by both the parties and it reveals that in the judgment relied by the learned counsel for the petitioner it is categorically stated that whether the petitioner was working as a workman falls within the purview of section 2(s) of I.D. Act, 1947 or was

working in a Supervisor capacity is a matter which has to be considered only after recording the evidence to arrive at conclusion whether the petitioner was working as a workman or was working as a Supervisor. The said issue cannot be answered without the evidence which is yet to be adduced by the parties in the trial.

Therefore, in my opinion the present petition would be maintainable and question of maintainability can be considered only after the full fledged trial which deciding the main matter. Hence, the present petition is maintainable and the contention of the respondent counsel stating that the present petition is not maintainable has to be rejected at this stage.

Prl. District and Sessions Judge., Bagalkot.