

!ITEM NO.111

COURT NO.7

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2863 OF 2006

WEST BENGAL POWER DEV. CORPN.LTD.& ORS.

Appellant (s)

VERSUS

ASHISH DEY CHOWDHURI & ORS.

Respondent(s)

Date: 21/04/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE A.K. PATNAIK

For Appellant(s) Mr. Mohan Parasaran, ASG
Mr. L.C. Agrawala, Adv.

For Respondent(s) Mr. S.S.Shamshery, Adv.
Ms. Debaleena Kilikdar, Adv.for
Mr. R.C. Kohli, Adv.

Mr. Avijit Bhattacharjee ,Adv

UPON hearing counsel the Court made the following
O R D E R

The Appeal is allowed in terms of the signed order.
No costs.

(Parveen Kr. Chawla)
Court Master

(Sneh Bala Mehra)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2863 OF 2006

West Bengal Power Development
Corporation Limited & Others

..Appellants

versus

Ashish Dey Chowdhuri & Others

..Respondents

O R D E R

Heard learned counsel for the parties.

This appeal has been filed against the impugned
judgment of the High Court of Calcutta dated 14th December,

2004.

The facts in detail have been set out in the impugned judgment and hence we are not repeating the same here.

The respondents claimed that they were doing the work of perennial nature in the services of the appellants and hence they filed a writ petition before the High Court of Calcutta in which two directions were given by a learned Single Judge of the High Court, firstly, it shall be open to the respondents(writ petitioners) to approach the concerned authority under the Contract Labour (Regulation & abolition) Act,1970(for short 'the Act') for determination of the question as to whether perennial nature of work was performed by them and for appropriate reliefs in that behalf, and secondly, that they should be paid minimum rate of wages of regular employees. It is against the second direction that

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the appellants filed a writ appeal before the Division Bench of the High Court which has been dismissed by the impugned order. Hence, this appeal.

The Division Bench, in the impugned order, has held that the engagement of the contract labour is a camouflage, and work done by them is of perennial nature. In our opinion, this was a question of fact which requires evidence and the High Court in writ jurisdiction could not give such a finding.

Accordingly, we allow this appeal, set aside the impugned order of the Division Bench of the High Court as also the direction given by a learned Single Judge to pay the minimum rate of wages of the regular employees. However, if the respondents(writ petitioners) approach the concerned authority under the Act, we direct the authority to decide the said application in accordance with law,

expeditiously.

No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
APRIL 21, 2010

[A.K. PATNAIK]

.....J.