

JK  
SLP(C)No. 11892 OF 2000

ITEM No.205

Court No. 1

SECTION XV  
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.11892/2000  
(From the judgement and order dated 01/05/2000 in LPA 107/00  
of The HIGH COURT OF PATNA)

MANAGEMENT OF BASF INDIA LTD.

Petitioner (s)

VERSUS

STATE OF BIHAR & ORS.

Respondent (s)

( With Appln(s). for permission to submit additional document(s)  
and with prayer for interim relief and Office Report )  
( For Final Disposal )

With

SLP(C)No.11893/2000

( With Appln(s) for exemption from filing c/c of the impugned  
judgment and permission to submit additional documents and with  
prayer for interim relief and Office Report )  
( For Final Disposal )

Date : 16/03/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE R.C. LAHOTI  
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s) Mr. J P Cama, Sr. adv.  
Mr. R N Karanjawala, adv.  
Ms. Nandini Gore, adv.  
Mrs Manik Karanjawala, adv.

For Respondent (s) Mr. M P Jha, adv.  
Mr. Ram Ekbal Roy, adv.  
Mr. Anil K. Chopra, adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J  
.SP2

Leave granted.  
The appeals are allowed in terms of the signed  
order. No costs.

.SP1

(Kanchan Jain)  
AR-cum-PS

(Prem Prakash)  
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2100 OF 2001@@  
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arising out of

SPECIAL LEAVE PETITION (CIVIL) NO. 11892 OF 2000@@

CC

Management of BASF India Ltd. ....Appellant

VS.

State of Bihar & Ors. ....Respondents

With  
Civil Appeal No. 2101 of 2001  
arising out of SLP(C) No. 11893 of 2000

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T....J  
.SP2

Leave granted in both the special leave petitions.

Shorn of all details, facts giving rise to these appeals are that the State Government of Bihar referred two industrial disputes between the appellant and its workmen by the following two References for adjudication by the Industrial Tribunal, Bihar:

.....L.....I.....T.....T.....T.....T.....J.....  
.SP1

Reference No. 1@@  
CCCCCCCCCCCCCCCC

"Whether the closure of M/s. BASF India Limited, Bokaro Steel City, declared by the management is justified? If not, what relief the workmen of the said factory are entitled to?"

Reference No. 2@@  
CCCCCCCCCCCCCCCC

"Whether not to introduce the reconstruction works of the plant under the defined purpose of voluntary Retirement service (VRS) Scheme and to enforce its closure by BASF India Ltd. Bokaro is justified? If not, what relief under this Scheme the workmen are entitled to?"

.....L.....I.....T.....T.....T.....T.....T.....T....J  
.SP2

2.

The management - appellant herein, felt aggrieved by the two references and filed two writ petitions. Through CWJC No. 3253 of 1999 (R), Reference No. 1 was put in issue while in CWJC No. 3254 of 1999 (R), Reference No. 2 was put in issue. Both the writ petitions, inter alia, sought quashing of the references.

The writ petitions came to be dismissed by a learned Single Judge of the Patna High Court on 27th March, 2000 in limine, though by a speaking order. The management thereupon filed two Letters Patent Appeal Nos. 107 and 108 of 2000 questioning the correctness of the orders of the learned Single Judge passed in the two writ petitions. The LPAs have been dismissed by a Division Bench of the High Court, vide orders impugned before us.

We have heard learned counsel for the parties.

The main ground for dismissal of the writ petitions as also the LPAs is that according to the High Court, the Industrial Tribunal is itself competent to decide the question of the legality or validity of the References. This view is not in ...3/-

3.

accordance with the settled law on the subject. In our opinion, it is not open to the Industrial Tribunal to determine whether a Reference made to it is justified or otherwise legally valid. It is also not open to the Industrial Tribunal to decide the question whether closure of the establishment is justified, in a Reference made by the State Government under the Industrial Disputes Act. The issues involved in the References were required to be decided by the High Court after taking into consideration all relevant facts. The High Court could not relegate the parties to the Industrial Tribunal for determination of those questions. Under these circumstances, the impugned orders of the Division Bench of the High Court cannot be sustained.

The appeals are, thus, allowed and the impugned orders of the Division Bench of the High Court are set aside. The matters are remitted to the Division Bench of the Jharkhand High Court for their fresh disposal in accordance with law.

It shall be open to the parties to file any amended memo of appeal and/or response as also any other document before the Division Bench of the High Court in support of their respective cases.

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4.

The directions issued by this Court on 16th August, 2000 to the effect that while the proceedings before the Industrial Tribunal may go on, no final order shall be passed by the Industrial Tribunal till the matter is disposed of by this Court shall, however, continue to remain in operation during the pendency of the appeals in the High Court.

We have not referred to the circumstances leading to the making of the two References or the history of the case; we, therefore, clarify that

nothing said hereinabove shall be construed as any expressions of opinion on the merits of the controversy between the parties as raised in the writ petitions or the writ appeals. The Division Bench of the High Court shall decide the appeals on their own merits.

We request the Division Bench of the High Court to dispose of the petitions expeditiously.

No costs.

.SP1

.....CJI

.....J.  
(R. C. LAHOTI)

.....J.  
(N. SANTOSH HEGDE)

New Delhi  
March 16, 2001.