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WA-361-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 16th OF APRIL, 2025WRIT APPEAL No. 361 of 2025*SACHIV AND OTHERS**Versus**MOHANAR BIRARE*

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Appearance:

Shri Swapnil Khare - learned counsel for the petitioner.

Shri Rajneesh Gupta- learned counsel for the respondent.
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ORDER

Per. Hon'ble Shri Justice Suresh Kumar Kait, Chief Justice

Present appeal has been filed on the ground that there was a registration of one autorickshaw in the name of the respondent herein in the year 2007 and he was in a gainful employment and earning his livelihood from the said auto. However, in the affidavit neither he disclosed nor submitted that he was earning a livelihood by running auto.

2. The petition was filed before the learned Single Judge against the award passed by labour Court vide order dated 26/10/2023 directing reinstatement of respondent without backwages and operation of the impugned award was stayed by the learned Single Judge vide order dated 26/04/2024 subject to compliance of the provisions of Section 17-B of



Industrial Disputes Act, 1947.

3. It is not in dispute that compliance of provisions of Section 17-B of Industrial Disputes Act, 1947 was not made by appellant. For convenience, Section 17-B of the Industrial Disputes Act, 1947, is reproduced herein as under:-

"17B. [Payment of full wages to workman pending proceedings in higher Courts. [Inserted by Act [46 of 1982](#), Section 11 (w.e.f. 21.8.1984).]

- Where in any case, a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period of part, as the case may be.

4. From the aforesaid provision, it is not in dispute that if any award directing reinstatement is assailed before the High Court then the petitioners/employer are under obligation to comply with provisions of Section 17-B of the Industrial Disputes Act, 1947, if it is not done, petition can be dismissed.

5. The said provisions have not been complied with and the learned Single Judge held that I.A. No. 10769/2024 filed by the appellants and



documents showing that the respondent herein is under employment and running an auto cannot be pressed to avoid compliance of Section 17-B.

6. The fact remains that as per Section 17-B of the Industrial Disputes Act the workmen should be in the gainful employment. Admittedly he was not working with any establishment, however he allegedly kept on running auto that for earning his livelihood that is just for survival hand to mouth. Moreover the auto in question was registered in the year 2007 and thereafter after 2012 renewal certificate of fitness has not been issued. It established even he was not running auto. Be that as it may since 17-B has not been complied with we find no ground to interfere in the appeal. Appeal stands dismissed.

(SURESH KUMAR KAIT)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE

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