

**MOHINI MOHAN BETAL**

Advocate

High Court, Calcutta  
Bar Association, Room No.16  
(M) 9434803743

Date : 29.06.2022

To

1. The Ld. Government Pleader  
Appellate Side, High Court, Calcutta
2. The Principal Secretary, Government of West Bengal Department of Labour, New Secretariate Building, 12th Floor, 1, Kiran Sankar Roy Road, Kolkata 700001.
3. The Chief Executive Officer Haldia Development Authority, city Centre, Holdia, Purba Medinipur Pin 721657.
4. The Haldia Development Authority City Centre, Debhog, Holdia, Purba Medinipur Pin 721657.
5. The Chairman, Holdia Development Authority City Centre, Debhog, Holdia Purba Medinipur Pin 721657.
6. The Principal Secretary Urban Development (T & CP) Govt. of West Bengal, Nagarayan, DF-8, Secretary Bidhan Nagar, Kolkata 700064.
7. The Principal Secretary, Government of West Bengal Public Health Engineering Department, New Secretariate Building 7th Floor, 1, K.S. Roy Road, Kolkata 700001.
8. The Executive Engineer, Holdia Water supply Division PHE, DTE.
9. The Deputy Labour Commissioner Holdia, Purba Medinipur, Pin 721602.

**Re** : W. P. A. NO. 13/71 OF 2022  
Chandrasekhar Sarkar & ors.

Petitioners

-Versus-

The State of West Bengal & Ors.

.... Respondent

Sir (s)

Enclosed please find herewith a copy of the writ application along with all annexures which will be moved before the Hon'ble Justice Subhra Ghosh on 05.06.2022 or

*N.K. Singh* soon thereafter when the business of the Hon'ble court will permit. *Sunra* 07.07.2022

Kindly present at the time of hearing.

Thanking you,

Yours faithfully,

*Mohini Mohan Betal*  
(Advocate)

Encl : As above

## SYNOPSIS

Petitioners engaged by the Principal employer HAD and he engaged contractor through tender. Contractors were changed but the workmen were/are unchanged the job is perennial in nature and in similar circumstances the worker is regular and getting salary, pension etc. by this department of PHE but they are discriminating in the case of the petitioners. Petitioners made an application for abolition of section 10(2) of contract labour (Regulation & Abolition) Act 1970 but that was not consider by the Principal employer your petitioner compelled to move before the Hon'ble Court. After direction of this Hon'ble Court His Lordship the Hon'ble Justice Tapen Sen pleased to direct to refer the matter before the appropriate court. The Principal employer referred the matter but that was not consider as yet and some of the workmen are going to be retired on 30<sup>th</sup> June, 2022 without any benefit.

### SHORT LIST OF DATES

- 1988 : Haldia water supply project was established by the PHE with a view to supply the drinking water for domestic and commercial purpose.
- 2001 : Work order issued by the CEO HAD for the purpose of distribution of water contractor was appointed in various plant contractors were changed but the employee were unchanged as it is perennial nature of job.
- 2010 : Petitioners made an application to the principal employer HAD for abolition of contract labour u/s. 10(2) of the contract labour (Regulation and Abolition) Act, 1970.
- 5.10.2010 : Being not consider petitioners made an application before the Hon'ble Court for appropriate order. After hearing His Lordship the Hon'ble Justice Tapen Sen pleased to direct the principal employer to refer the matter but the principal employer HAD did not refer the matter and passed a reasoned order.
- 30.8.2011 : Petitioners again filed a writ petition before the Hon'ble Court again His Lordship pleased to direct to refer the matter in wP No.254 (W) of 2011.
- 2011 : By Memo dated HAD/VII-A/553/10 the Principal employer refer the matter to Principal Secretary, Govt. of West Bengal.
- 14.4.2012 : Send a reminder.
- 6.1.2015 : Send reminde.
- 10.6.2022 : Being silent the petitioners' Learned Advocate send a demand justice.
- 14.6.2022 : Send a letter to the DLC
- 27.5.2022 : Onwards the agency of the Principal Employer send a letter of Superannuation.
- 7.6.2022 : Petitioners made a reply.

District : Purba Medinipur

In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

In the matter of :

W.P.A. No. 1317 of 2022

And

In the matter of :

An application under Article 226 of  
the Constitution of India.

And

In the matter of :

Subject matter relating to  
Under Group III Head  
Of the Classification List ;

Cause Title

Chandrasekhar Sarkar & Ors.

... Petitioners

Versus

The State of West Bengal & Ors.

... Respondents

Advocate-on-Record

Mohini Mohan Betal

Advocate

High Court, Calcutta

Bar Association, Room No.16

### Points of law

- I. Whether the respondents being the statutory authority have acted illegal not judiciously?
- II. Whether it is evident that the engagement of new contractor is sham and eye wash only however the employees remain the same ?
- III. Whether the H.D.A. can not deny the master and servant relationship with the petitioners as the petitioners were/are engaged to work of Haldia water supply project erstwhile PHE . Dte and HDA who are the owners of the said project ?
- IV. Whether the job which is being performed by the petitioners is purely perennial in nature and it is also a fact that the petitioners job and other benefits are being controlled by the respondent HDA therefore prayer for abolition U/s 10(2) of the said Act should be allowed by the appropriate authority but the authority concerns as sitting tight over the matter which is against all cannon of justice and fair play ?
- V. Whether the appropriate authority is well aware about the provision of abolition of contract labour and thereby not deciding the issue in a unreasonably long period the appropriate authority is highly illegal and is violation of principle of natural justice ?
- VI. Whether knowing fully well that the petitioners are working and engaged by the principle employer and identity card was issued by the PHE and project is running throughout year in 24 hours therefore purported action of the appropriate government not to take a decision under section 10(2) of the said Act are wholly arbitrary malafide and illegal and in excess of jurisdiction ?

## LIST OF DATES

- 1988 : Haldia water supply project was established by the PHE with a view to supply the drinking water for domestic and commercial purpose.
- 2001 : Work order issued by the CEO HAD for the purpose of distribution of water contractor was appointed in various plant contractors were changed but the employee were unchanged as it is perennial nature of job.
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- 5.10.2010 : Being not consider petitioners made an application before the Hon'ble Court for appropriate order. After hearing His Lordship the Hon'ble Justice Tapen Sen pleased to direct the principal employer to refer the matter but the principal employer HAD did not refer the matter and passed a reasoned order.
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District : Purba Medinipur

In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

In the matter of :  
W.P.A. No. 13171 of 2022  
And

In the matter of :  
An application under Article 226 of  
the Constitution of India.  
And

In the matter of :

Chandrasekhar Sarkar & Ors.  
... Petitioners

Versus

The State of West Bengal & Ors.  
... Respondents

Index

Sl. No.	Particulars	Annexure	Page
1.	Petition		
2.	Xerox copies of the work order;	"P-1"	
3.	Xerox copies of the few Identity Cards	"P-2"	
4.	A Xerox copy of the application.	"P-3"	
5.	Photo copy of the representation.	"P-4"	
6.	A copy of the order of the Hon'ble court and order of HAD.	"P-5"	
7.	Xerox copy of the order.	"P-6"	
8.	Xerox copy of the letter.	"P-7"	
9.	Xerox copy of the letter.	"P-8"	
10.	Xerox copy of the Letter.	"P-9"	
11.	Xerox copy of the demand justice on 10.06.2022.	"P-10"	
12.	A Xerox copy of 27 superannuation Notice	"P-11"	

District - Purba Medinipur

In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

WPA No. 13171 of 2022

In the Matter of :

An Application under Article 226 of  
the Constitution of India;

And

In the matter of :

01. Chandrasekhar Sarkar, son of  
Late Bhupendranath Sarkar,  
residing at 76, Gourpara, 2 No.  
Radhakrishna Colony, Post Office  
and Police Station: Chakdaha,  
District Nadia, Pin : 741222, W.B.

02. Sk. Ruhul Amin, son of Sk.  
Abdul Majid, residing at Village:  
Betkundu, Post Office : Jagatpur,  
Police Station: Mahishadal, District  
: Purba Medinipur, Pin: 721603,  
W.B.

03. Satyasar Mahapa, son of Late  
Pramada Mahapa, residing at  
Village: Betkundu, Post Office :

Jagatpur, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

04. Nandalal Maity, son of Late Beni  
Maity residing at Gopal Chak, Post  
Office : Rajanihganj, Police Station  
: Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

05. Bimal Kumar Gole, son of Late  
Phani Bhusan Gole, residing at  
Village: Panchghari, , Post Office :  
Bhupatinagar, Police Station:  
Panchghari Bayenda, District :  
Purba Medinipur, Pin: 721425,  
W.B.

06. Manaranjan Das, son of Late  
Phanindranath Das, residing at  
Village: Betkundu, Post Office :  
Jagatpur, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

07. Charubala Ghorai, wife of Late  
Rampada Ghorai , residing at  
Village: Shuklalpur, Post Office :  
Geonkhali, Police Station:

Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

08. Chittaranjan Das, son of Late  
Amulya Charan Das, residing at  
Village: Betkundu, Post Office :  
Jagatpur, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

09. Motilal Duari, son of Late  
Haripada Duari, residing at Village:  
and Post Office : Natshal, Police  
Station: Mahishadal, District :  
Purba Medinipur, Pin: 721603,  
W.B.

10. Niranjan Kumar Parua, son of  
late Basudev Parua., residing at  
Village: and Post Office : Jagatpur,  
Police Station: Mahishadal, District  
: Purba Medinipur, Pin: 721603,  
W.B.

11. Sukdev Manna, son of Late  
Anathbandhu Manna, residing at  
Village: Tentulberia, Post Office :  
Rajaniganj, Police Station:

Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

12. Banshi Mohan Das, son of Late  
Upendra Mohan Das, residing at  
Village: Ichhapur, Post Office :  
Raghurampur, Police Station:  
Mahishadal, District: Purba  
Medinipur, Pin: 721645, W.B.

13. Dinabandhu Das, son of Late  
Gourhari Das, residing at Village &  
Post Office :Natshal, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

14. Naru Gopal Pattanayek, son of  
Late Manmatha Pattanayak,  
residing at Village: Bhangagara,  
Post Office : Deulpota, Police  
Station: Mahishadal, District :  
Purba Medinipur, Pin: 721670,  
W.B.

15. Sk. Serajul Haque, son of Late  
Khursid Ali, residing at Village:  
Bhangagara, Post Office : Deulpota,  
Police Station: Mahishadal, District

: Purba Medinipur, Pin: 721670,  
W.B.

16. Biswanath Jana, son of Late  
Nani Gopal Jana, residing at  
Village: and Post Office : Lakshya,  
Police Station: Mahishadal, District  
: Purba Medinipur, Pin: 721654,  
W.B.

17. Kartik Das, son of Late  
Ananda Das, residing at Village:  
and Post Office : Bamunia, Police  
Station: Mahishadal, District :  
Purba Medinipur, Pin: 721628,  
W.B.

18. Akshay Kumar Maiti, son of  
Late Shyam Chand Maiti, residing  
at Village and Post Office :  
Purbasrirampur, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721603, W.B.

19. Gautam Jana, son of Late Bholu  
Nath Jana, residing at Village:  
Azra, Post Office : Chanpi, Police  
Station: Mahishadal, District :

Purba Medinipur, Pin: 721628,  
W.B.

20. Balai Chand Ghati, son of late  
Ratan Ghati, residing at Village:  
Chak Gajipur, Post Office :  
Lakshya, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721654, W.B.

21. Sadhan Chandra manna, son of  
Late Arun Manna, residing at  
Village: Chak Dwariberia, Post  
Office : Dearoneroa, Police Station:  
Mahishadal, District : Purba  
Medinipur, Pin: 721654, W.B.

22. Madan Mohan Ballav, son of  
late Dhirendra Nath Ballav,  
residing at Village and Post Office :  
Dwariberia Police Station: Sutahata  
, District : Purba Medinipur, Pin:  
721654, W.B.

23. Sukumar Ghosh, son of Late  
Hara Dhan Ghosh, residing at  
Village: Tajpur, Post Office :  
Tajnagar Police Station: Sutahata,  
District : Purba Medinipur,

24. Narayan Chandra Das, son of  
Late Sudhir Das, residing at Village:  
Basudevpur, Post Office  
Khanjanchak, Police Station:  
Durgachak District : Purba  
Medinipur.

25. Sasank Dandapath, residing at  
Village: Basudevpur, Post Office  
Khanjanchak, Police Station:  
Durgachak District : Purba  
Medinipur., Pin : 721602.

26. Sadhan Khamaru, son of Late  
Kartick Chandra Khamaru,  
residing at Village & Post Office -  
Agadora, Police Station : Sutahata,  
Dist: Purba Medinipur Pin :  
721635.

... Petitioners

Versus

1. The State of West Bengal Service through Secretary, Government of West Bengal, Department of Labour.

2. The Principal Secretary, Government of West Bengal Department of Labour, New Secretariate Building, 12<sup>th</sup> Floor, 1, Kiran Sankar Roy Road, Kolkata 700001.

3. The Chief Executive Officer Haldia Development Authority, city Centre, Holdia, Purba Medinipur Pin 721657.

4. The Haldia Development Authority City Centre, Debhog, Holdia, Purba Medinipur Pin 721657.

5. The Chairman Holdia Development Authority City Centre, Debhog, Holdia Purba Medinipur Pin 721657.

6. The Principal Secretary Urban Development (T & CP) Govt. of West Bengal, Nagarayan, DF-8, Secretary Bidhan Nagar, Kolkata 700064.

7. The Principal Secretary, Government of West Bengal Public Health Engineering Department, New Secretariate Building 7<sup>th</sup> Floor, 1, K.S. Roy Road, Kolkata 700001.

8. The Executive Engineer, Holdia Water supply Division PHE, DTE.

9. The Deputy Labour Commissioner Holdia, Purba Medinipur, Pin 721602.

... Respondents

To

The Hon'ble Prakash Shrivastava, Chief Justice and His Companion Justices of this Hon'ble Court.

The humble petition of the applicants above named most respectfully -

**MOST RESPECTFULLY SHEWETH :**

1. That your petitioners are citizen of India and are living at the addresses as mentioned in cause title hereinabove.

2. That some of the petitioners were land loser and evicted person due to acquisition, of land of Haldia for public purpose and rest of the petitioners were local unemployed youth. The Public Health Engineering, Govt. of West Bengal establish a water project some time in 1988 with a view to supply the water for domestic and commercial purpose after purification of "water from Hooghly river and for that purpose they constructed a project/water treatment plant at Geonakhali. After purification of water it is distributed from different pumping/booking Station from Chaitanyapur, Basudevpur and Hatiberia and Swati PH-II etc. for domestic and commercial purpose.

3. That for day to day round the clock operation and maintenance and day to day round the clock guarding arrangement of all the site the authority engaged the contractors on commission basis. The respondent No. 8 issued the work order on the condition that the recruitment of all categories of staff are to be made through local Employment Exchange as per labour Depts. Memo no. 1700/Emp dt.03.08.79.

Xerox copies of the two work orders are annexed herewith and marked with the letter "PI".

4. That your petitioners being the landloser and poor unemployed youth were engaged in due process under direct supervision and control of the respondent No.8 at the initial stage some time in 1998 onward and are in continuous service till date without any interruption although several Contractors came into picture and went, but the contractual employees remained constant.

A xerox copy of few identity card is annexed herewith and marked with the letter "P-2" and crave leave to produce all cards at the hearing.

5. That in pursuance of GO No.PHE/ESst/573/2E-20193 (3) dated 15.4.1993 of PHE Deptt. Govt. of West Bengal all the assets created/obtained/procured under the Haldia Water supply project, movable and immovable, complete and -incomplete were handed over to Haldia Development Authority on 30.04.1993.

6. That it was also reverted back to public Health Engineering Dte Haldia water supply Division for day to day operation and maintenance and renovation on behalf of HDA vide memo No. PHE/ESst/1517/2E-98/98Pt-1, dt. 8.9.1998. Since then the existing facilities are being operated and maintained in the P.H.E. on behalf of H.D.A.

7. That your petitioner state that from the initial stage your petitioners are working in the said Basudevpur water supply project. The project is permanent in nature and the state carrying the revenue from this project but there is no permanent employee in this water supply project under the law it is an industry. The contractors were/are engaged by the principal employer H.D.A time to time but the existing labourer were/are not changed though the contractors were changed. The project is permanent in nature but the workers of that project were/are treated as contract labour.

8. That under direct supervision and control of HD (PHE Dte) the water supply project is running. The wages was fixed by the authority by sending a wages structure and all the contractors followed the said guideline. The principle employer paid the VDA directly to the worker as per list send by the respondent NO.4, PHE Dte and from those documents it will be evident that the principle employer is HDA (PHE dte) they can not deny their responsibility and liability of the worker under any circumstances.

9. That the Haldia Development Authority issued the tender for the maintenance and operation and guarding whereby it will be found that they have direct supervision and control on the water treatment plant day to day round the clock operation' and maintenance, and guarding arrangement of all the sites and control on the worker engaged by the principal employer through Employment Exchange. The contractors engaged by the principle employer execute the work as commission agent the contractors send the bill to the principle employer with commisseion and after payment of said bill in presence

of the representative of the principal employer the wages were paid to the workmans.

10. That in the tripartite meeting hold in the office chamber of the Asst Labour Commissioner the representative of the principle employer was present and took all the decision including the rate of wages and other benefits. In the year 1996 such resolution was taken for PF and ESI medical allowance and decide that H.D.A. will take up the issues with appropriate authority for proper implementation.

11. That on 6.1.2000 one meeting was held in presence of representative of H.D.A. where a proposal was take by the all signatories that workman are to be paid House rent allowance as per law and to be covered under EPF and Misc provision Act 1952 and ESI Act 1948 and the worker wanted to use H.D.A. P.F. Code No. The representative of H.D.A. stated that he would place the proposal to the higher authority for consideration.

12. That in the proceeding dated 24.3.2000 it was decided in presence of all the parties that arrear VDA and other arrears pay which was raised be paid to the workmen as early as possible by H.D.A., service pay is to be paid to each workmen as per rules and Act of Govt and the workmen will be covered in ESI and petition as per Act of Govt.

13. That in a meeting regarding revision of wages of the PHE maintenance held on 29.5.2003 in the chamber of Chief Executive Officer, H.D.A. whereby A Subblah, CEO/HDA initiated discussion

and informed and requested to assist in the amicable solution and it was resolved that -

- (i) Arrear VDA bill from 1.7.2001 to 30.6.2009 will be submitted by the PHE to HDA within 15 days of July, 2003.
- (ii) PHE will issue notices immediately to all contractors directing them for getting registered with the PF Commissioner for getting P.P. Number otherwise they will not be eligible for participating in the tender.
- (iii) The Union submitted a demand of increase of Rs.15 on the basic per year as annual increment w.e.f. 24.3.2000. They also reiterated that it was agreed upon in the tripartite meeting held on 24.3.2000 and also it was overlooked by H.D.A. even though the demand was accepted in the tripartite meeting as above for which HDA agreed for placing it in the meeting of the water Management Committee of HDA.
- (iv) The Union further reiterated the demand for implementation of ESI which was agreed upon in the tripartite meeting held on 24.3.2000 that workman will be covered in ESI and felt that it was also overlooked by HDA Board even though the demand was accepted in the tripartite meeting as above for which H.D.A.

Whereby it will prove that the H.D.A. is directly involved with the workman in water supply project at Haldia.

14. That on 25.3.2008 the Asst Labour Commission inform the PHE/ Dte in reply to the Memo No. 112/HD/W-794/06 dt. Durgachak the 20.3.08 observed regarding payment of wages of worker engaged with works he observed that:-

"a) Arriving at wages of individual labourers categorically as asked for on verification of the two lists (i.e. one approved by the Haldia Development Authority and the other placed by the Secretary, HDA Thika Mazdoor Union) in question is not possible since the wage structure used in each case and the duration of service rendered by the concerned workmen are not provided with the list.

b) From the records available with this office it is ascertained that from the year 1996 onwards till date as many as 3 (three) tripartite agreement have been signed by the parties viz. the workmen union, contractor agencies in presence of the representative of PHE, Haldia Motor Supply Divn. and H.D.A. on 13.3.1996, 27.3.97 and 24.3.2000 respectively (copies enclosed) in connection with revision of wages of workmen engaged at operation and maintenance of pumping machineries and substation. However it is not clear from your letter whether you have given effect to that agreement or not.

c) According the wages structure so fixed at the last tripartite agreement (i.e. the agreement signed on 24.3.2000 in time held in this office on 11.12000 in presence of representative of H.D.A. should be taken into account for the purpose of fixation of wages of the workmen concerned. The applicability of the said agreement was also discussed and resolved in. the meeting regarding revision of wages of the PHE maintain once workmen held on 29.5.2003 in the chamber of CEO, HD.

15. That on 30.07.2008 the executive Engineer Haldia water supply Divn. PHE DTE send a calculation sheet of VDA direct to the workmen and thereafter the HDA paid on acquaintance. The VDA was paid to the workers of Haldia water supply project under Haldia Development Authority signed by the Executive Engineer Haldia W/S Division PHE Dte and it was also identified by the supervisor.

16. That a meeting held on 16.09.08 in presence of principal employer where HDA stated that on behalf of HD, PHE Dte is executing the operation and maintenance of Haldia water supply project till date and on HDA and HWMI.

17. That your petitioners came to know that an agreement was signed with the Haldia water management Ltd. for operation and maintenance but your petitioners did not know who is the Haldia water management and what is his status.

18. That before handing over the charge the Haldia Development Authority directly paid the wages at Hatiberia and Basudebpur side to all the worker as there was no contractor.

Therefore the principle employer i.e. HDA can not deny that he is not the principal employer. The establishment owned by the principle employer and on the direct supervision and control the project is running by the contract labour where there is no permanent employee.

19. That the P.F. authority in a case of a contractor observed in 7A proceeding that the H.D.A. is the principal employer and the

principal employer has not complied and deposited the P..F. contribution.

20. The petitioners are working in said project from the date of their joining without any benefits at the whims of the principal employer and the principal employer deprived them from their legitimate right in collusion with the Union and contractor. The principal employer managed the leader of the Union by some other consideration without giving any benefit to the workmen who are working day and night every day in a year 365 days in a year and is in continuous service from the date of joining without any break. The contractors were changed but the workers remain unchanged and they have promoted according to their seniority and efficiency within the knowledge supervision and control of the principal employer.

21. That the HDA is the principal employer in the meaning of definition clause (g) of the contract labour (Reg. and Abolition) Act 1970 and your petitioners are the workmen under clause (1) of the said Act. Your petitioners are worker of principal employer and they works for a principal employer to whom the provisions of the contract labour Act are attract.

22. That the contract labour (Reg. and Abolition) Act was passed in the year 1970 and Regulation was framed in the year 1971 for prohibition of employment of contract Labour U/s 10 of the said Act. It is surprisingly that more than sixty years after the independent the practice of employing labour though contractors by the establishment i.e. HAD. There is no security of service to the workman and there wages are far below than that of the, regular workman on similar job

in different water supply project. The life of the workman depends on the whims of the principal employer and the union.

23. That your petitioners made an application to the principal employer i.e. HDA on 30.04.2010 with a request to refer the matter before the appropriate authority for prohibition of employment of contract labour in water supply project at Haldia U/s 10 (2) of the contract labour (Reg and Abolition) Act 1970 and Rules framed there under. The principal employer received the same on 4.5.10 but no steps HDA been taken yet.

A xerox copy of the application is annexed herewith and marked with the letter "P-3".

25. That the HDA being the principal employer and public statutory authority under Article 12 of the constitution of India he should act fairly and reasonably but in the instant case he is sitting tight over the matter without referring the matter to the appropriate authority under the Act though the principal employer is duty bound to refer the matter as all the conditions are fulfilled u/s 10(2) of the said Act. Your petitioners crave leave to argue on the issue, at the time of hearing.

25. That the principal employer i.e. HDA is now trying to shift their responsibility and liability upon the new contractor by an agreement dated 18.07.2008 with Haldia water Management Ltd.

26. That the job is perennial in nature and workmen are working in the project 24 hours in a day by shifting their duties. The principal

employer is selling the water to the different person and factories in exchange of money and earned profit but the workmen are deprived by the principal employer at the instance of Union and influential person which is unwarranted in law. The acts and activities of the principal employer is highly illegal, bad malafide violate all the law and principles of natural justice.

27. That in similar circumstances the employees of water supply project are working as regular employees and draw salary and pension but in the case of the workmen of Haldia water supply project are working as contract labour though they are standing on the same foot which amount to discriminatory as the workmen being the weaker party and the respondents are the stronger party.

28. That the COD has not been implemented as yet and no provision has been acted upon and no workmen group has yet been formed save and except retirement and petitioner are not bound by the COD. That before two months of retirement PF and ESI has been stopped and increment also not only that Rs.5000/- deducted from the salary in one unit. Some of the employer are working above 60 years with PF & ESI who are the hand picked person of the authority. Your petitioners crave leave to refer and argue on the said point at the hearing.

29. That retired workmen did not know after retirement how much amount the authority will pay and there is no mention in the COD that if there is no eligible person of retired employee what is the fate of workmen. We made an application to the DLC by our letter dated but no steps has yet been taken.

A xerox copy of the representation dated \_\_\_\_\_ is annexed herewith and marked with the letter "P/ 4".

30. That there is no permanent employee in water supply project and it is perennial nature of job and the workmen are working 24 hours in 365 day since their appointment.

That more than 60 years after the independence the practice of employing labour through contractor is bad.

There is no security of service of workmen and the wages are below than that of the regular employee on similar job.

30. That being not consider the said application by the principal employer your petitioners compelled to move before the Hon'ble High Court at Calcutta being W.P. No.20134 (W) of 2010 ( Bipad Bhanjan Kalsa & Ors. Vs. The State of West Bengal & Ors.) The Hon'ble Court was pleased to direct the principal employer to refer the matter to the appropriate authority.

A copy of the order of the Hon'ble Court and order of HDA is annexed herewith and marked with the letter "P-5".

But instead of referring the matter, the HDA passed an order of that the matter should not be referred to the Govt. for purpose of taking a decision under the contract labour (Regulation and Abolition Act 1970).

31. That being dissatisfied with the order dated \_\_\_\_\_ of HDA your petitioners again filed a writ petition before the Hon'ble court being W.P. No.254 (W) of 2011 the Hon'ble Court on 30.08.2011 was pleased to direct the order dated 04.11.2010 is set aside and the matter is referred back to the said C.E.O. for purposes of referring the matter to the appropriate Government for necessary order in accordance with law.

A Xerox copy of the order is annexed hereto and marked with the letter "P-6".

32. That by Memo No.HDA/VII-A-553/10 the principal employer referred the matter to the Principal Secretary with a request to take a decision U/s 10(2) of the Contract Labour ( Regulation & Abolition) Act 1970.

A Xerox copy of the said letter is annexed herewith and marked with the letter "P-7".

33. That the appropriate authority did not response for a decision your petitioner made a representation on 11.04.12, 14.08.2012, 19.09.2012, 14.08.2013 with a request to take a decision your petitioners also met with the appropriate authority several times and he assured your petitioners that he will take decision in favour of the petitioners forthwith but that has not been consider as yet for some other consideration and since 2011 the mater is kept pending.

Xerox copy of the said letter is annexed herewith and marked with the letter "P8."

34. That by letter dated 10.06.2022 your petitioners Ld. Advocate send a demand justice stating all the facts and requested to take a decision forth with but no steps has been taken as yet.

A Xerox copy of the said letter is annexed herewith and marked with the letter "P9"

35. That the principal employer and their men and agents are threatening the petitioners every day and any moment they will discharge/dismiss the workman from their service and all the workman are feeling insecure and at any moment the principal employer take any action against the workman with the help of so called self designated labour Union. The acts and actives of the principal employer is highly illegal amounts to unfair labour practice.

36. That your petitioners Ld. Advocate made a demand justice on 10.06.2022 with a request to take a decision u/s 10(2) of the said Act but that was ignored.

A Xerox copy is annexed herewith and marked with the letter "P-10"

37. That now more than 26 persons are going to be retired at the age of 60 years and they are deprived by the principal employer without retirement benefit they are compelled to retired for which the decision of appropriate Govt. is necessary otherwise they will suffer irreparable loss and injury with their family members.

38. The appropriate authority after receiving the letter by the principal employer he is duty bound to take a decision for abolition

of contract labour u/s 10(2) of this said Act and he is waiting for retirement of all the petitioners therefore the implementation of the order of the Hon'ble High Court is necessary.

39. Your petitioners submit that since the direct relationship of master and servant has been established by and between the respondent authority HAD and the petitioners by virtue of their acts and conduct, the respondents authority can not shift other responsibility by engaging a new contractor which is denial of the legitimate right and claim under the provision of section 10(2) of contract Labour (Regulations & Abolition) Act 1970.

40. That during pendency of the 10(2) application before the appropriate before the appropriate authority the agency of the principal send a notice for super annuation vide clause No.8.6 and recommendation vide clause No.8 of Memorandum of settlement dated 05.01.2021 where by the agency stated that the petitioner attained age of 60 years on 01.04.2022 accordingly the superannuating person will be released on June 30 and the final settlement will be cleared along with the pay rile subject to your signing off the final clearance sheet. Your petitioners did not know what settlement will be cleared. The petitioners is not a member of the said Union therefore the chartered of demand is not binding upon the petitioner.

A Xerox copy of 27 superannuation notice is annexed herewith and marked with the letter "P-11".

41. That the said agency is neither the principal employer nor the appointing authority therefore the said superannuation notice is illegal, bad violate the principle of natural justice and that should be quashed, withdraw/rescinded and recall.

42. That your petitioners made a reply to the agency that we have no knowledge about the settlement and in collusion of the choiceable leader the settlement was finalised without any consent from the petitioners. Moreover we are awaiting from the decision of appropriate Government present to the direction of the Hon'ble Court in W.P. No.254 (W)of 2011.

Xerox copy of the reply is annexed herewith and marked with the letter "P-12."

43. That there is no provision in COD for employment of near relative of the son/son in law not available your petitioners made an application to the DLC to review the chartered forthwith sitting tight over the matter which amounts to be unfair labour practice

44. your petitioners came to know that the workmen are working after 60 years and earned PF & ESI but in the instant case the petitioners are compelled to retired without any benefit your petitioners crave leave to argue on the point at the hearing.

45. That being highly aggrieved by and dissatisfied with the action/inaction by not taking the decision by the appropriate authority u/s 10(2) of the contract Labour (Regulations & Abolition)

Act 1970 your petitioners begs to move this application under Article 226 of the Constitution of India on the following amongst others :-

Grounds

- I. For that the respondents being the statutory authority have acted illegal not judiciously.
- II. For that the H.D.A. can not deny the master and servant relationship with the petitioners as the petitioners were/are engaged to work of Haldia water supply project erstwhile PHE . Dte and Had who are the owners of the said project.
- III. For that the job which is being performed by the petitioners is purely perennial in nature and it is also a fact that the petitioners job and other benefits are being controlled by the respondent Had therefore prayer for abolition U/s 10(2) of the said Act should be allowed by the appropriate authority but the authority concerns as sitting tight over the matter which is against all cannon of justice and fair play.
- IV. For that the appropriate authority is well aware about the provision of abolition of contract labour and thereby not deciding the issue in a long period for a unreasonable period the appropriate authority is highly illegal and is violation of principle of natural justice.
- V. For that knowing fully well that the petitioners are working and engaged by the principle employer and identity card was issued by the PHE and project is running throughout year in 24 hours therefore purported action of the appropriate

government not to take a decision under section 10(2) of the said Act are wholly arbitrary malafide and illegal and in egress of jurisdiction.

- VI. For that the principal employer is selling the water to various factories and earn profit from water but the workman are deprived from various benefit since their appointment which is illegal and violate the provision of ID act 1947 and rules framed there under and also violate the contract labour (Regulation & Abolition) Act 1970.
- VII. For that the appropriate Govt. is waiting for the retirement of all the petitioner by not deciding the matter for indefinite period the action of the authority is highly illegal unlawful unconstitutional motivated, arbitrarily discriminatory vindictive and against the principle of natural justice and against the provision of Article 14, 16 and 19(1)(g) of the constitution of India.
- VIII. For that the action of the respondents is otherwise bad in law.
- IX. For that during pendency of the 10(2) application before the appropriate before the appropriate authority the agency of the principal send a notice for super annuation vide clause No.8.6 and recommendation vide clause No.8 of Memorandum of settlement dated 05.01.2021 where by the agency stated that the petitioner attained age of 60 years on 01.04.2022 accordingly the superannuating person will be released on June 30 and the final settlement will be cleared along with the

pay rile subject to your signing off the final clearance sheet. Your petitioners did not know what settlement will be cleared. The petitioners is not a member of the said Union therefore the chartered of demand is not binding upon the petitioner.

- X. For the said agency is neither the principal employer not the appointing authority therefore the said superannuation notice is illegal, bad violate the principal of natural justice and that should be quashed, withdraw/rescined and recall.
- XI. For that a reply to the agency that we have no knowledge about the settlement and in collusion of the choiceable leader the settlement was finalised without any consent from the petitioners. Moreover we are awaiting from the decision of appropriate Government present to the direction of the Hon'ble Court in W.P. No.254 (W)of 2011.
- XII. For That there is no provision in COD for employment of near relative of the son/son in law not available your petitioners made an application to the DLC to review the chartered forthwith sitting tight over the mater which amounts to be unfair labour practice
- XIII. For that the workmen are working after 60 years and earned PF & ESI but in the instant case the petitioners are compelled to retired without any benefit your petitioners crave leave to argue on the point at the hearing.

46. Your petitioners submit that unless the respondents No.2 the appropriate Government to take a decision in accordance with law by implementing the order dated 30.08.2011 in W.P. No.254 (W) of 2011 passed by His Lordship Hon'ble Justice Tape Sen which was referred by the principal employer Had by Memo No.HDA/VII-A-553/10 your petitioners will suffer irreparable compensate in any manner.

47. That this application is made bonafide and for the ends of justice.

In the above circumstances petitioners pray to your Lordships that your Lordships would be graciously pleased to pass the order as follows :-

a) A rule in the nature of Mandamus commanding the respondents authority not given effect or further effect of superannuation notice issued by the agency.

b) A Rule in the nature of mandamus directing the respondent No.3 principal employer to declare the service

benefit after retirement of the petitioners.

c) A writ in the nature of mandamus directing the respondents authority that all retirement if any will abide by the result of decision of section 10(2) of the contract Labour (Abolition and Regulation) Act 1970.

d) A writ in the nature of certiorari directing the respondents to transmit and/or produce all the records relating to the case so conscionable justice may be done by your Lordships.

e) Rule Nisi in terms of prayer (a) (b) & (c) above.

f) Injunction not to given effect o further effect the superannuation better issued by the agency till the decision of the 10(2) application and declare the

service benefit by the principal employer before retirement.

g) Ad-interim order in terms of prayer (f)

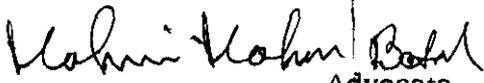
h) Make the Rule absolute

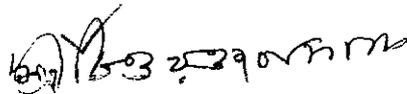
i) Grant cost and/or incidental

j) Pass such other other/orders as Your Lordship may deem fit and proper.

And your petitioners as in duty bound shall ever pray.

I certify that the petitioner No.8 is duly authorise to affirm and Sign this affidavit for self and on behalf of petitioner Nos. 1 to 7 and 9 to 28.

  
Advocate



## Affidavit

I, Chittaranjan Das, son of Late Amulya Charan Das aged about 60 years by faith - Hindu, by occupation Labourer residing at Village: Betkundu, Post Office : Jagatpur, Police Station: Mahishadal, District : Purba Medinipur, Pin: 721603, W.B., do hereby solemnly affirm and say as follows :-

1. That I am the petitioner No.8 herein and as such I am well acquainted with the facts and circumstances of the instant case. I have been duly authorised and competent to affirm this affidavit for and behalf of the other petitioners.
2. That the statements made in paragraphs 1 to \_\_\_\_\_ of the foregoing petition are true to my knowledge and rests are my humble submission before this Hon'ble Court.

Prepared in my office

*Mohini. Deban Das*

Advocate

*[Signature]*

The deponent is known to me

Clerk to Mr.

Advocate

Solemnly affirmed before me on  
this the 24 day of June 2022.

COMMISSIONER

I certify that all annexures are legible

Advocate

32 Annexure P<sub>1</sub>  
60 Annexure P<sub>1</sub>

GOVERNMENT OF WEST BENGAL  
OFFICE OF THE EXECUTIVE ENGINEER  
HALDIA WATER SUPPLY DIVISION, HALDIA  
SUPER MARKET BUILDING (1ST FLOOR)  
P.O. DURGAACHAK : 721 502 : DIST. HALDIA

MEMO No. 1068 Dated, Durgaachak, the 13.9.2001

To Hindustan Electrical Construction Co.,  
Vill + P.O. Durgachak, Midnapore.

Sub: Acceptance the work order for day to day round the clock operation and maintenance of primary and secondary grid pumping machinery and 11 K.V. indoor type Sub-Station including Mitsubishi pumping machineries and chlorine dosing metering pump set and indoor and outdoor illumination system at Basudevpur Head work site under Haldia W/S Scheme for one year with effect from 16.9.01 to 15.9.02 (12 months) under Haldia W/S Project.

Estimated Cost: Rs. 16,89,339.00

Ref: M.I.T. No.21/HDA of 2000-2001 (S1.No.3) and corrigendum Notice No.413/HO dated 11.4.2001, 687/HO dated 12.4.2001, 892/HO dated 31.7.2001 and 934/HO dated 08.8.2001.

Dear Sir,

I, on behalf of Haldia Development Authority have the pleasure to inform you that your rate 4.75% (four point seven five percent) above than the departmental estimated cost as offered in the tender dated 22.8.01 vide tender Notice No.21/HDA of 2000-2001(S7.3) is hereby accepted by the Haldia Development Authority.

Hence the net value of work comes to Rs.17,69,573.00 (rupees seventeen lakh sixty nine thousand five hundred seventy three) only inclusive of all other charges what so ever.

You are requested to make an agreement by signing in Haldia Development Authority Tender Form No.1 in duplicate within 7(seven) days from the date hereof; failing which penalty clauses as laid down in will be strictly enforced.

You are also requested to submit necessary Labour licence certificate as per Labour (Regulation and Abolition) Act-1970 before starting the work.

You are also requested to take up the work immediately in consultation with the Assistant Engineer(M), Haldia Elec.Sub-Division, P.H.E.Dte. and complete the work within 1(one) year from the date 16.9.01 failing which penalty clauses as laid down in Haldia Development Authority Tender Form No.1 will be strictly enforced.

The initial recruitment of all categories of staff are to be made through Local Employment Exchange as per Labour Deptt's memo No.1/00/2118 dated 3.8.79.

This letter should be treated as an advance work order.

Yours faithfully,  
12/9/01  
EXECUTIVE ENGINEER

HALDIA W/S DIVN. P.H.E.DTE.

- Memo No. 1068 Dated, Durgaachak, the 13.9.2001
- Copy forwarded for information and necessary action to:
- 1) The Superintending Engineer, Haldia-Kharagpur W/S Circle, P.H.E.Dte.
  - 2) The Chief Executive Officer, Haldia Dev. Authority.
  - 3) The Assistant Engineer(M), Haldia Elec. Sub-Divn, P.H.E.Dte. He is requested to show the working site to the agency enabling him to start the work.
- Enclosed two copies of work order.
- 4) The Sub-assistant Engineer(M), Haldia Elec. Sub-Divn, P.H.E.Dte
  - 5) The Commissioner of Income Tax. 6) The Commissioner of Sales Tax.
  - 7) The Registering Officer & Deputy Labour Commissioner of Income Tax.
  - 8) The Divisional Accountant /The Cashier/The Estimator/The Head Clerk, Haldia W/S Divn, P.H.E.Dte.

EXECUTIVE ENGINEER  
HALDIA W/S DIVN. P.H.E.DTE.

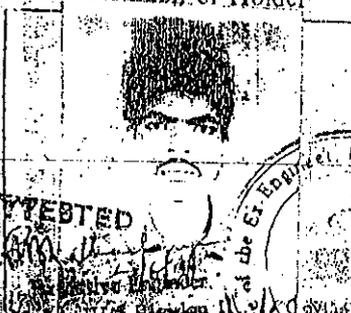
P. Paul

33

Annexure P<sub>2</sub>

82

Photograph of Holder



ISSUED To (in block letters)  
 Sri/Sm. BIPAD BHANJAN KALSA  
 S/o. Datud Ch. Kalsa  
 Designation GUARD  
 Permanent Address Bhagyabantapur, Khanjanchak, CO. Midnapore.  
 Present Address do  
 Signature of issuing Authority [Signature]  
 Date of issue 27/1/90  
 Valid upto 27/1/90

ATTESTED  
 [Signature]  
 Full Signature of Holder  
 Date 27/1/90

of the Es. Emp. & In. Dept. W. B. State  
 D. E. D. O. Midnapore

Photograph of Holder



ISSUED To (in block letters)  
 Sri/Sm. BIPAD BHANJAN KALSA  
 S/o. Datud Ch. Kalsa  
 Designation GUARD  
 Permanent Address Vill. Bhagya-  
bantapur, P.O. Khanjanchak,  
 Present Address Dist. Midnapore.  
 Signature of issuing Authority [Signature]  
 Date of issue 27/1/90  
 Valid upto 27/1/90

Bipad Bhajan Kalsa  
 Full Signature of Holder  
 Date

of the Es. Emp. & In. Dept. W. B. State  
 D. E. D. O. Midnapore

[Signature]  
27/1/90

- 34 -

Annexure - P<sub>3</sub>

228

Annexure P-15

Dated : 30.04.2010

To  
The Chief Executive Officer  
Haldia Development Authority  
& the Principal Employee of the Workman  
HDA (P&E Dte.) Water Supply  
Project.

Sub : Request to refer the matter before the appropriate authority for prohibition of employment of contract labour in water supply project at Haldia u/s. 10(2) of the contract labour (Reg. And abolition) Act, 1970 and Rules, framed thereunder.

Dear Sir,

With profound respect we the under signed beg to state as follows :-

1. That we are the contract labour and the various contractors being awarded work order(s) in various jobs relating to Haldia Water supply project owned and managed by Haldia Development Authority.
2. That as per work order issued by you we are engaged through employment exchange on your direct supervision and control we are working since 1987 <sup>onwards</sup> till to day without any break. This projects is an industry, we are working for the benefit of general public where there is no permanent employee.
3. That more than 60 years after the independence the practice of employing labour through contractors is bad. There is no security of service of workman and our wages are below than that of the regular employee.
4. That you have paid the VDA and wages structure prepared by you and also few months you have also paid the wages to us directly. The job is perennial nature and fulfil all the conditions u/s. 10 of the contract labour (Reg. & Abolition) Act, 1970 and rules framed thereunder for abolition of such system of presence of intermediaries.





- 36 -

Answered

To,  
The Deputy Labour Commissioner,  
Haldia, Purba Medinipur



**Sub:- An application under sub-section (2) of section 10 of the Industrial Disputes Act, 1947**

a) Parties to the dispute - Workmen under Haldia Water Supply Project  
Vs  
Haldia Development Authority. (Principal Employer)

b) Specific matter in dispute

1. That we are the workmen under Haldia Water Supply Project owned and managed by the Haldia Development Authority and who is the principal employer of all workmen who are working for the public service and for the benefit of principal employer .
2. That most of the workmen are working in the said establishment more than 25-30 years continuously with a minimum wages with a hope that in future the principal employer lookafter them with all facilities as an employee in other establishment .
3. That time to time the principal employer engaged various contractors , contractors were changed several time but we are the workmen are unchanged and the principal employer engaged contactors without any PF &ESI and several cases is pending and we are workmen are deprived so long.
4. That in the year 2009 a settlement was made which was effect from 1st November,2008 to 31<sup>st</sup> October 2013 and before that no PF & ESI was paid and the principal employer allowed his favourable contractors who has no PF & ESI. Thereafter the principal employer paid VDA to all workmen and all notice and order acts and activities it is establish that the H.D.A. is the principal employer
5. That you are well aware that the workmen made an application to the principal employer i.e. H D A for a decision under the contract Labour ( Regulation and abolition ) Act,1970 being not considered, the workmen filled a writ petition before the Hon'ble High Court Calcutta being WP No. 20134(W) of 2010( Bipad Bhanjan Kalsa & others VS State of West Bengal & Ors. ). But the order of the said writ petition being not complied with, the writ petitioners again filed a writ petttion being WP No 254(W) of 2011 ( Bipad Bhanjan Kalsa & Ors VS State of West Bengal & Ors) . The Hon'ble Court pleased to direct the principal employer to refer the matter to the appropriate Government for necessary order and the Principal Employer referred the matter by Memo No. H DA/VII--553/10. Thereafter neither the principal employer nor the appropriate Government taken any decision inspite of repeated representation. There is no steps has been taken in died in harness cases. Intermis of chartered demand so the chartered demand has not been acted upon and should be reviewed.
6. That Since 31<sup>st</sup> October 2013 no chartered Demand was made and a new chartered demand was made in the year 2021 by the Contractor, Sub-contractors and Principal Employer without any opinion consent from the majority of workmen. The representative of the Union was not represent all the workmen and most of the workmen are in dark where in the first time one Haldia Water Service Private Limited( HWSPL) claimed himself as Principal Employer which is not maintainable in law . He has no legal status to claim himself as principal Employer where an application pending before the appropriate Government for a decision under the contract Labour ( Regulation and Abolition) Act,1970 for which the chartered demand should be reviewed.

That there is no arbitration clause there is no working committee u/s 3 of I.D Act And Joint Management Council u/s 3 A. The new agreement is framed against the interest of workmen with the help of choiceable Union representative and that should be reconsider forthwith otherwise the interest of all workmen will be and suffer irreparable loss and injury forever and that should be re-consider.

- 8. That there is no provision which amount will be paid to the retired workmen after his retirement and who will pay the said benefit . All workmen are feeling secured in for which your intervention is required to reconsider the charter Demand .
- 9. That there is no grievance redressed machinery u/s 9 C of I.D. Act 1947. That in the year 2016-19 in Geonkhali Site paid increment of rs. 4,000/- but the other site has been deprived from that increment though all workmen are standing on same foot and it was acknowledge to the principal employer by letter dated 30.05.2019 and 22.8.2017.
- 10. That there was no chartered demand during the period 2013- 2020 under what circumstances no settlement was made and deprived poor workmen year to year and principal Employer and agencies are kept silent for a long unreasonable period and also you.
- 11. That the Chartered Demand is not acted upon and not in accordance with the provision of I.D Act 1947. And rules 1958. The workmen crave leave to argue on that point at the hearing.
- 12. That the contractors men and agents are threatening day to day without any reason with the help of police and influential person and also threatened to dismiss from service and / for or suspend any workmen without any reason if they claim their legitimate right There is no boundary wall in Geokhali Site any incident may occur and there is no arrangements for security Guard in night the men and agent also threaten to initiate false criminal case against the workmen who will move the demand of workmen and other points will mention at the hearing.
- c) Total number of workmen in the establishment affected  
A separate sheet is attached herewith.
- d) Estimated number of workmen affected or likely to be affected by the dispute  
All the workmen who are workmen are working in Haldia Water Supply Project.
- e) Effort made by the parties themselves to adjust the dispute  
Workmen tried to solve the dispute but no steps has been taken as yet.

- 101 Kuman Krishna Rani
- 21 Gimalabandhu Das.
- 31 Tapas Kumar Mallik
- 81 Sambhu Nath Maiti
- 41 [Handwritten]
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- 71 [Handwritten]
- 81 [Handwritten]
- 91 Samarash Adak
- 101 Sirotoan Marora
- 111 [Handwritten]
- 121 Susamay Bishu
- 131 Malay Desna
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- 1001 [Handwritten]

- ৩৬। মুহম্মদ হাউস
- ৩৬। Palakumar Das
- ৩৭। Kunal Patra
- ৩৮।
- ৩৯।
- ৪০।
- ৪১। Biman Mondal
- ৪২। Bishuddh Chakrabarty
- ৪৩। চাঁকু বালা
- ৪৪। Chandana Sekhar Sarkar
- ৪৫।
- ৪৬।
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- ৫৩।

৫৪। বিজয়নাথ বাসু

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101 20/11/52/1/1  
 101 Nijunjan Kumar parua  
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# Maras Malik

21 TAPAY PATA WAGER

22 MEghnu Midyu

23 Pradip Kumar Manne

24 Bikash Jana

29 ISRAIL MALLIK

36 Ajay Guzi

38 Klokam Ch! Golei

61 RAAGANI Prasad Manne

62 Palash Ka Janna

63 Ad Aiz

64 Himanshu Mandal

68 MOshi Rozan o

69 ARUP Mallik

65 Murti Jana

69 Klokam Prasad

64 Aniket Bera

67 Sr. Ajimuddin

70 SKASROO BALI

71 Pratik Manne

72 Ashok Majhi

73 ANSUDDIN SHA

74 SK ASOK

75 Utkal Kulkarni

76 Prabhas Das

77 Madhukar Singh

78 Moinuddin SK

79 Pratap Ray

80/82 Arun Kumar

81 Sr. Manoj. An

82/83/84/85/86/87/88/89/90/91/92/93/94/95

86 SK Saiidul Islam

- 2081 Rajkumar Chakraborty
- 2081 SAs Soddary Hossain
- 2081 Anup Kumar Mallik
- 2091 Utpal Maiti
- 2081 SK MATM
- 2081 Jagannath Ruidas
- 2081 Aray Kumarkeyal
- 2081 Ishik Bora
- 2081 Su. Muselin
- 2081 DAMAN MALIK
- 2081 ANURAG SENI
- 2081 Sujit Kumar Maiti
- 2081 Tapas K. Jank
- 2081 D. Jank. D. Baner
- 2081 Dibyendu Das Akhuni

P. T. O

- ୨୧୯/ ବିଶ୍ୱାସ ଚକ୍ରବର୍ତ୍ତୀ ବାଲିଆପା
- ୨୨୦/ ଭୀମନ ନାୟକ
- ୨୨୧/ ପ୍ରାଣ କୁଞ୍ଜ ନାଥ
- ୨୨୨/ ସୁଧାଂଶୁ ଦେବ
- ୨୨୩/ ଗାନ୍ଧୀ କୁମାର ପ୍ରାଣାନନ୍ଦ
- ୨୨୪/ ନାଥାନନ୍ଦ ଚନ୍ଦ୍ର ମହାପାତ୍ର
- ୨୨୫/ ଉତ୍ତମ ଦୁର୍ଗା
- ୨୨୬/ ବିନୟ କୁଞ୍ଜ ଶର୍ମା
- ୨୨୭/ ଦେବଦାସ୍ୟାମୟ ସାହୁ
- ୨୨୮/ ସତ୍ୟ ଗାନ୍ଧୀ
- ୨୨୯/ ସଞ୍ଜୁ ନାଥ

୨୬୦/ Narayan Chandrabor

୨୬୧/ Siphak Singh,

୨୬୨/ Satin Bhattacharjee

୨୬୩/ ବିନୟ କୁଞ୍ଜ ଶର୍ମା

୨୬୪/ Samir Ranjan Roy (Shahi)

୨୬୫/ Tapas Banik

୨୬୬/ ଅନୁରାଗ

୨୬୭/ ସତ୍ୟ ନାଥ

୨୬୮/ SK Firoz Ali

୨୬୯/ Satya Ranjan Khatua.

୨୭୦/ Ashis Kumar

୨୭୧/ ନୀଳମଣି ମହାପାତ୍ର

୨୭୨/ ପ୍ରମୋଦ ଚନ୍ଦ୍ର

୨୭୩/ ନୀଳମଣି ମହାପାତ୍ର

୨୭୪/ Sidesh Bleceni

୨୭୫/ Puspendu Samanta

୨୭୬/ Narendranath Khan

- 2891 Palal Dhara
- 2892 Bilagidhru. Halob
- 2893 ~~2891~~ ~~2892~~ ~~2893~~
- 2894 S.omi Monpalla
- 2895 Samirar Mishra
- 2896 Sublet Maity
- 2897 ~~2898~~ ~~2899~~ ~~2900~~
- 2898 Subhankar Bhowmik.
- 2899 S. Sanyal Danda Pal
- 2900 Sandip Kumar Dm
- 2901 Taren Mahata
- 2902 Balai Ch. Bhumia
- 2903 K. G. Nadeb Gels,
- 2904 Manoj Halder
- 2905 Gantam Chanda
- 2906 ~~2907~~ ~~2908~~ ~~2909~~ ~~2910~~
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- 2971 विज्ञान प्रयोग
- 2972 विज्ञान प्रयोग
- 2973 विज्ञान प्रयोग
- 2981 (अ) विज्ञान प्रयोग
- 2982 विज्ञान प्रयोग
- 2983 विज्ञान प्रयोग
- 2991 विज्ञान प्रयोग
- 2992 विज्ञान प्रयोग
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- 2994 विज्ञान प्रयोग
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- 2998 विज्ञान प्रयोग
- 2999 विज्ञान प्रयोग
- 3000 Kartik Das
- 3001 विज्ञान प्रयोग
- 3002 विज्ञान प्रयोग
- 3003 Satya Ranjan Maitty
- 3004 Hleemindraneth Daburth



= 46 -

Amreywsp

M. 19

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature
		5.10.2010	<p>W.P. No. 20134 (W) of 2010</p> <p><b>Bipad Bhanjan Kalsa &amp; Ora. ... Petitioners</b>  <b>-Versus-</b>  <b>State of West Bengal &amp; Ora. ... Respondents</b></p> <p>Mr. Moloy Kr. Basu,  Mr. Nandalal Nayek,  Mr. Mohini Mohan Betal  .. For the Petitioners</p> <p>Mr. Soumya Majumder,  Mr. Jaydeb Ghorai  .. For the Respondent No. 11</p> <p>Mr. Sali Kr. Maiti  .. For the Respondent No. 6</p> <p>Mr. Supriyo Roychowdhury  .. For the State-Respondents</p> <p>Affidavit of Service is taken on record.</p> <p>This Writ Petition is being disposed of with the consent and Agreement of parties.</p> <p>Mr. Sali Kr. Maiti, learned Counsel appears for the Haldia Development Authority. Mr. Soumya Majumder, learned Counsel appears for the Chief Executive Officer, Haldia Water Management Limited, Durgachak (Respondent No.11) and Mr. Supriyo Roychowdhury, learned Counsel, appears on behalf of the State-Respondents.</p> <p>Mr. Moloy Kr. Basu, learned Senior Counsel appearing on behalf of the Petitioners has confined the Writ Petition only to the extent that the application of a large number of contract labourers filed on 30.4.2010 before the Chief Executive Officer, Haldia Development</p>

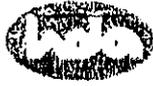
Plain Photo copy  
Scribal Gangopadhyay  
5.10.2010  
Assistant Registrar  
(Court)  
High Court, Appellate Side  
Calcutta

Date	Office notes, reports, Orders or proceedings with signatures
	<p>Authority requesting him to refer the matter before the appropriate authority for consideration <del>under</del> under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970, be disposed of.</p> <p>Under such circumstances, but without in any way adjudicating on the merits of the Claims of the Petitioners, this Court disposes of the Writ Petition by directing the said Chief Executive Officer to attend to the said Application, which has been marked Annexure P-13 to this Writ Petition and take a decision in the matter of referring the same to the Government for purposes of taking a decision strictly in accordance with law and within a period of six weeks from the date of receipt of a copy of this Order and communicate the same to the Petitioners within a period of one week thereafter.</p> <p>Since no affidavits have been used by the Respondents, none of the allegations made in the Writ Petition will be deemed to have been accepted by any of the Respondents.</p> <p>Subject to an application for certified copy being made and proof in support thereof being produced, let a plain photocopy of this Order, duly countersigned by the Assistant Registrar (Court), be handed over to the</p> <p>PARTIAL.</p> <p style="text-align: right;"><i>Sd/-</i> _____ (Tapan Ram, J.)</p>

*Plain Photocopy  
Saibal Gangopadhyay  
6.10.2010  
Assistant Registrar  
(Court)  
High Court, Appellate S/M  
G. 1. 9. 7. 8. 4.*

c 48 -

Annexure P-13



**OFFICE OF THE CHIEF EXECUTIVE OFFICER**  
Haldia Development Authority, City Centre, P.O. Debhog  
Haldia-721657, Dist: Purba Medinipur

Ph: (03224) 255926 Fax-255927 e-mail [ceo.hda@gmail.com](mailto:ceo.hda@gmail.com) Web: [www.hdaindia.com](http://www.hdaindia.com)

Memo No.: **HDA/II-A-553/10** Date:

From: Chief Executive Officer  
**Haldia Development Authority**

To: The Principal Secretary,  
Government of West Bengal  
Department of Labour  
Writers' Buildings,  
Kolkata - 700 001

Sub.: Reasoned decision in connection with the Order of Hon'ble Court as passed in  
W.P. No. 254(W) of 2011 dated 30-08-2011.

Sir

As per solemn order passed by the Hon'ble High Court in the aforesaid writ petition, Chief Executive Officer, Haldia Development Authority has to take a decision in the matter as per Annexure P-13 of the writ petition on referring the same to appropriate Government, accordingly I am forwarding a copy of the application made by the writ petitioners under section 10(2) of the Contract Labour (Regulation & Abolition) Act, 1970, i.e. Annexure 'P-13' of the aforesaid writ petition, along with Xerox certified copy of the solemn order in the aforesaid writ petition.

You are kindly requested to take necessary action in accordance with law on the request of the applicants on prohibiting the employment of contract labours in the Water Supply Project at Haldia u/s 10(2) of the Contract Labour (Regulation & Abolition) Act 1970 and Rules and the undersigned may kindly be communicated on the decision taken in this respect

Yours sincerely,

(Signature)

*(Signature)*  
Chief Executive Officer  
**Haldia Development Authority**

(Date)

= 99 -

Annexure 2  
PS

Memo No.: HDA/VII-A-553/10

Date: 01/07/2010

Copy forwarded for information to

1. Sri Mohini Mohan Betal, Advocate, High Court, Calcutta,  
6, Old Post Office Street,  
Room No. 66, Gr. Floor,  
Kolkata - 700 001.
2. Sri Bipad Bhajan Kalsa & Others  
Basudevpur Water Pumping Station,  
P.O. Khanjanchak, Haldia  
Dist. Purba Medinipur
3. Sri Salil Kr. Maity, Advocate, High Court, Calcutta,  
66, Mahatma Gandhi Road, 2<sup>nd</sup> Floor,  
Kolkata - 700 009.

  
Chief Executive Officer  
Haldia Development Authority

- 50 -

Annexure 1

M. 10

Noting by Office or Advocate	Serial No	Date	Office notes, reports, Orders or proceedings with signature
		30/08/2011 ARDR	<p style="text-align: center;"><b>WP 254 (W) of 2011</b></p> <p style="text-align: center;"><b>Bipad Bhanjan Kalsa &amp; Ors.</b> <b>Vs.</b> <b>State of West Bengal &amp; Ors.</b></p> <p>Mr. Molay Bose, Mr. N.L. Nayek, Mr. M.M. Betal, <span style="float: right;">...for the Petitioners.</span></p> <p>Mr. Dipak Ghosh, Mr. R. De, <span style="float: right;">.....for the Respondent nos. 4 to 7.</span></p> <p>Mr. Jaydeb Ghorai, Mr. D.N. Chattopadhyay, Mr. Suman Chatterjee, Mr. Soumya Majumder, <span style="float: right;">....for the Respondent no. 11.</span></p> <p>Affidavit of service is taken on record.</p> <p>Affidavit-in-Opposition is filed on behalf of the Respondent no. 11. The same is taken on record.</p> <p>It appears that the Order of this Court passed on 05/10/2010 in W.P. No. 20134 (W) of 2010 has not yet been complied with and, on the contrary, the Chief Executive Officer, Haldia Development Authority, has attempted to pass a reasoned Order on 04/11/2010 by which he has come to a conclusion that the matter should not be referred to the Government for purposes of taking a decision under the Contract Labour (Regulation and Abolition) Act, 1970.</p> <p>Although, this matter has been brought under the heading 'To Be Mentioned', at the instance of the Petitioners, pointing out that the matter should be</p>

in Photo copy  
on Registrar's side  
02/9/2011

Assistant Registrar (Court)  
High Court, Appellate Side,  
Calcutta

c 51 -

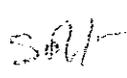
c P 8

by Office Advocate	Serial No	Date	Office notes, reports, Orders or proceedings with signature
			<p>placed for hearing since Affidavits have not been filed, this Court is however of the view that no useful purpose will be served in keeping this Writ Petition pending and therefore, even under this heading of 'To Be Mentioned', the matter is being disposed of. However, it should not be treated as a precedent to other cases.</p> <p>Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 clearly lays down that it is only the appropriate Government, which can prohibit, by notification in the Official Gazette, Employment of Contract Labour. The Chief Executive Officer cannot pass a reasoned Order, in justification of his refusal in referring the matter to the Government nor could he have passed an Order, which amounted to prejudicing the decision making process of the appropriate Government. It appears that the Chief Executive Officer has confused the Order dated 05/10/2010, which merely states that he was to attend to the Application (Annexure 13 to the earlier Writ Petition) and <b>take a decision in the matter of referring the same to the Government for purposes of taking a decision in accordance with law.</b> In other words, he should have simply forwarded the application to the Government for appropriate Orders and he should not have passed an independent Order, which has the</p>

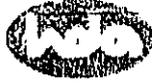
*Am R. Subramanian*  
*Assistant Registrar*  
*02/9/2011*  
 Assistant Registrar (Court)  
 High Court, Appellate Side,  
 Calcutta

= 52

P6

By Office Advocate	Serial No	Date	Office notes, reports Orders or proceedings with signature
			<p>effect of an Order being passed by the appropriate Government.</p> <p>Under such circumstances, the Order dated 04/11/2010 is set aside and the matter is referred back to the said Chief Executive Officer for purposes of once again taking a decision of referring the matter to the appropriate Government for necessary Orders in accordance with law.</p> <p>This Order will not preclude nor prevent any of the parties from making their submissions before the appropriate Government. It goes without saying that the Chief Executive Officer shall do the needful in terms directed by this Court within a period of two weeks from the date of receipt of a copy of this Order.</p> <p>With the aforesaid observations and directions, this Writ Petition stands disposed of.</p> <p>Subject to an application for certified copy being made and proof in support thereof being produced, let a plain photocopy of this Order, duly countersigned by the Assistant Registrar (Court), be handed over to the parties.</p> <p style="text-align: right;">             (Tapan Rao, J.)         </p>

In Photocopy  
 by Registrar (Court)  
 02/9/2011  
 Assistant Registrar (Court)  
 2<sup>nd</sup> Court, Appellate Side,  
 Calcutta



OFFICE OF THE CHIEF EXECUTIVE OFFICER  
Haldia Development Authority, City Centre, P.O. Debhog  
Haldia-721657, Dist: Purba Medinipur

Ph: (03224) 255926, Fax-255927 e-mail [ceo.hda@gmail.com](mailto:ceo.hda@gmail.com) Web [www.hdaindia.com](http://www.hdaindia.com)

Memo No.: HDA/VII-A-553/10

Date:

From: Chief Executive Officer  
Haldia Development Authority

To: The Principal Secretary,  
Government of West Bengal  
Department of Labour  
Writers' Buildings,  
Kolkata - 700 001

Sub.: Reasoned decision in connection with the Order of Hon'ble Court as passed in  
W.P. No. 254(W) of 2011 dated 30-08-2011.

Sir,

As per solemn order passed by the Hon'ble High Court in the aforesaid writ petition, Chief Executive Officer, Haldia Development Authority has to take a decision in the matter as per Annexure P-13 of the writ petition on referring the same to appropriate Government, accordingly I am forwarding a copy of the application made by the writ petitioners under section 10(2) of the Contract Labour (Regulation & Abolition) Act, 1970, i.e. Annexure 'P-13' of the aforesaid writ petition, along with Xerox certified copy of the solemn order in the aforesaid writ petition.

You are kindly requested to take necessary action in accordance with law on the request of the applicants on prohibiting the employment of contract labours in the Water Supply Project at Haldia u/s 10(2) of the Contract Labour (Regulation & Abolition) Act, 1970 and Rules and the undersigned may kindly be communicated on the decision taken in this respect.

Yours sincerely,

Enclosure as stated

*Sdf*  
Chief Executive Officer  
Haldia Development Authority

(10/11/11)

59-

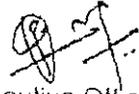
P<sup>2</sup>

Memo No.: <sup>59/10</sup> HDA/VII-A-553/10

Date: 2/12/10

Copy forwarded for information to

1. Sri Mohini Mohan Betal, Advocate, High Court, Calcutta,  
6, Old Post Office Street,  
Room No. 65, Gr. Floor,  
Kolkata - 700 001.
2. Sri Bipad Bhajan Kalsa & Others  
Basudevpur Water Pumping Station,  
P.O.Khanjanchak, Haldia  
Dist. Purba Medinipur
3. Sri Salil Kr. Maity, Advocate, High Court, Calcutta,  
66, Mahatma Gandhi Road, 2<sup>nd</sup> Floor,  
Kolkata - 700 009.

  
Chief Executive Officer  
Haldia Development Authority

c SS - Annexure P<sub>2</sub>

# HALDIA DEVELOPMENT AUTHORITY WATER SUPPLY OPERATION & MAINTENANCE NATIONALIST CONTRACTOR'S WORKER'S UNION

Registration No. - 26053

HALDIA ❖ PURBA MEDINIPUR

SUVE NDU ADHIKARY  
President

SWAPAN KUMAR NASKAR  
Working President

BIPAD BHANJAN KALSA  
General Secretary

Ref. No. To.....

The Principal Secretary,  
Ministry of Labour Department,  
Govt. of West Bengal  
Writers' Buildings,  
Kolkata - 700001.



Date. 11.4.12

File No. : LW/4L -10/11 dt. 20.12.2011

In re: Order dt. 30.08.2011 in W.P. No. 254(W) of 2011 Bipad Bhanjan Kalsa & Ors. VS The State of West Bengal & Ors.

Sub: Prayer for early decision on prohibiting the employment of contract Labours in the Water Supply Project at Haldia u/s 10 (2) of the contract labour ( Regulation & Abolition ) Act 1970 .

Most respectfully Sheweeth :

1. With profound respect we the workmen of Water Supply Project we are working since 1988 as contract Labour at a minimum rate of wages without PF & ESI and other statutory benefit . The then Govt. deprived us since our joining. We compelled to move before the Hon'ble High Court for abolition of contract Labour as u/s 10(2) of the said act as we covered with the said section.
2. That by Memo No. 1149 H.DA/VII-A-553 / 10 dated 21.09.2011 the principal employer H DA send the matter to you for your kind consideration.
3. That on 20.12.11 it was numbered as LW/4L-10/11 and on 9.11.11 it has send to the Law Officer. On 30.11.11 it was send to the Addl Secretary and on 09.12.11 it send to MIC ( Sec). thereafter on 13.12.11 the file is with you for your consideration .
4. That we the workmen deprived by the principle employer since long and expect a decision form your Honour to save our family . The file is with you since 13.12.11 for your consideration more or less three months.

In that circumstances we pray before your Honour to take necessary steps on prohibiting the empicymnt Water Supply Project u/s 10(2) of the Contract Labour ( Regulation & Abolition) Act 1970 forthwith . We are waiting for your kind perusal in the matter aforesaid

Yours faithfully

*Bipad Bhanjan Kalsa*

General Secretary

H.D.A.W.S.O. & M. N.  
CONTRACTOR'S WORKER'S UNION

56  
Pg

**Mohini Mohan Betal**

Advocate  
High Court, Calcutta  
Bar Association Room No.- 16

Resi : F-12 Durgachak Punarbasan Colony  
Haldia, Purba Medinipur, W.B  
PIN : 721602  
Mob. : 9434803743  
e-mail : advocatehckol@gmail.com

Date: 10.6.2022

The Principal Secretary,  
Government of West Bengal, Department of Labour,  
New Secretariat Building, 12th Floor, 1,  
Kiran Sankar Roy Road, Kolkata-700 001.

In Re: Memo No. HDA/VII-A-553/0 Dt. Nil issued by the HAD Addressed To The Principal Secretary, Govt Of West Bengal.

Sub : Demand Justice for decision under section 10(2) of the contract Labour (Regulation & Abolition) Act, 1970 and Rules framed under there by virtue of order dt. 30.08.2011 in WP No. 252 (W) of 2011 (Bipad Bhanjan Kalsa & others Vs state of West Bengal & others).

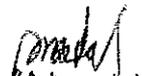
Dear Sir,

On instruction from my clients I address you as follows:-

1. That my clients are working in Haldia Water Supply Project more than 30 years under the principal employer Haldia Development Authority. The contractors were changed but the workmen were/are unchanged and the workmen are working under the principal employer H.D.A.
2. The Haldia Water Supply Project owned and managed by the Haldia Development Authority. My clients made an application to the H.D.A for abolition of contract Labour (Regulation & Abolition) under section 10 (2).
3. That the said application was not consider by the principal employer my clients compelled to move before the Hon'ble Court in WP No.- 254 (W) of 2011 (Bipad Bhanjan Kalsa & others Vs State of West Bengal & Others) and by order dt. 30.08.2011 iss Lordship Hon'ble Justice Tapan Sen pleased to direct the principal employer to refer the application to the appropriate authority The principal employer referred the matter to you by Memo No.- HAD/Vii- A-553/10 dt. nil with a request to take necessary action in accordance with law. But till today no decision has been taken without any reasonable cause.
4. That my clients made several reminder to you with a request to take a decision as the workmen are deprived from various benefit since long.
5. That you being the public officer you should act fairly reasonable in accordance with law but in the instant case you are sitting tight over the matter for a long unreasonable period without showing any reason. Which is illegal bdo malaffide and violate the principle of natural justice and also violate all the provisions of law and workmen are deprived from their legitimate right since long.

In that circumstances you are requested to take a decision forthwith and communicate the same to me or my client of foiling which I am instructed to take legal action against you without any further reference and you will be liable for all consequences.

Your's faithfully,

  
(Advocate)

Encl:- i) Memo No. HAD/VII-A-553/10 send by HDA

ii) Order dt. 30.08.2011 passed by his Lordship Hon'ble Justice Tapan Sen

57

103

Mohini Mohan Betal

Advocate  
High Court, Calcutta  
Bar Association Room No.- 16

Resi : F-12, Durgachak Punarbasan Colony  
Haldia, Purba Medinipur, W.B  
PIN : 721602  
Mob : 9434803743  
e-mail : advocatehckol@gmail.com

Ref.....

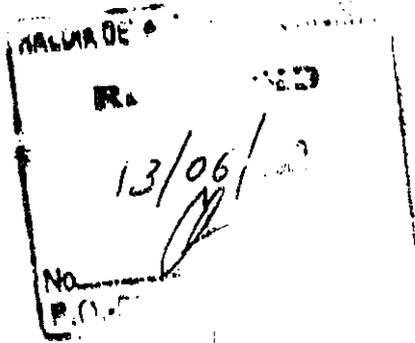
Date.....

Copy The Chief Executive Officer  
Haldia Development Authority

You are requested to let me know whether you received any decision from the appropriate authority if yes please send me a copy of decision and what steps you have take after sending the letter.

Your's faithfully,

*Mohini Mohan Betal*  
(Advocate)



58 P10  
Mohini Mohan Betal

Advocate  
High Court, Calcutta  
Bar Association Room No.- 16

Resl. F-12 Durgachak Punarbasan Colony  
Haldia, Purba Medinipur, W.B.  
PIN : 721602  
Mob. : 9434803743  
e-mail : advocatehckol@gmail.com

Ref. ....

Date: 10.6.2022

To  
The Principal Secretary,  
Government of West Bengal, Department of Labour,  
New Secretariat Building, 12th Floor, 1,  
Kiran Sankar Roy Road, Kolkata-700 001.

In Re: Memo No. HDA/VII-A-553/0 Dt. Nil issued by the HAD Addressed To The Principal Secretary, Govt Of West Bengal.

Sub : Demand Justice for decision under section 10(2) of the contract Labour (Regulation & Abolition) Act, 1970 and Rules framed under there by virtue of order dt. 30.08.2011 in WP No. 252 (W) of 2011 (Bipad Bhanjan Kalsa & others Vs state of West Bengal & others).

Dear Sir,

On instruction from my clients I address you as follows:-

1. That my clients are working in Haldia Water Supply Project more than 30 years under the principal employer Haldia Development Authority. The contractors were changed but the workmen were/are unchanged and the workmen are working under the principal employer H.D.A.
2. The Haldia Water Supply Project owned and managed by the Haldia Development Authority. My clients made an application to the H.D.A for abolition of contract Labour (Regulation & Abolition) under section 10 (2).
3. That the said application was not consider by the principal employer my clients compelled to move before the Hon'ble Court in WP No.- 254 (W) of 2011 (Bipad Bhanjan Kalsa & others Vs State of West Bengal & Others) and by order dt. 30.08.2011 iss Lordship Hon'ble Justice Tapan Sen pleased to direct the principal employer to refer the application to the appropriate authority The principal employer referred the matter to you by Memo No.- HAD/Vii- A-553/10 dt. nil with a request to take necessary action in accordance with law. But till today no decision has been taken without any reasonable cause.
4. That my clients made several reminder to you with a request to take a decision as the workmen are deprived from various benefit since long.
5. That you being the public officer you should act fairly reasonable in accordance with law but in the instant case you are sitting tight over the matter for a long unreasonable period without showing any reason. Which is illegal bdo malaffide and violate the principle of natural justice and also violate all the provisions of law and workmen are deprived from their legitimate right since long.

In that circumstances you are requested to take a decision forthwith and communicate the same to me or my client of foiling which I am instructed to take legal action against you without any further reference and you will be liable for all consequences.

Your's faithfully,

  
(Advocate)

Encl:- i) Memo No. HAD/VII-A-553/10 send by HDA

ii) Order dt. 30.08.2011 passed by his Lordship Hon'ble Justice Tapan Sen

50-  
**S.M. ENTERPRISE**

Construction. Mechanical. Structural. Industrial Solutions.

GSTIN : 19ALIPM3148GIZY



Ref: SME/27/22-23

Date: 27.05.2022

Speed Post with A/D

To,

Mr. Chandrasekhar Sarkar

S/o Late Bhupendranath Sarkar

76, Gourpara, 2 No Radhakrishna Colony

P.O + P.S - Chakdaha, Dist - Nadia

Pin - 741222, W.B

Posted at Geonkhali Old Water Treatment Plant,

Geonkhali, Mahishadal, Purba Medinipur, Pin 721603

Subject: Notice of Superannuation (Retirement) vide Cl 8.6 of MOS and recommendation vide Cl 8a.

We would like to inform you that as per your DOB in EPF/Other Documents as submitted to us it seems that you have attained age of 60 years as of 01.04.2022.

Subsequent to our briefing reminding you about the superannuation date and age of sixty years which you have crossed, we need to execute the normal process of superannuation and to start with, we have taken in consideration about those persons who have crossed sixty years as on 31<sup>st</sup> March 22 and hereinafter will follow as per set norms of attaining sixty years. Though this process is as per the norms and more specifically vide clause 8A of the MOS signed, we have initiated the process by communicating to all concerned and accordingly the superannuating persons will be released on June 30.

On 30.06.2022 we will officially record your retirement and relieve you from your duties. Your final settlement will be cleared along with the payroll subject to your signing off the final clearance sheet.

Moreover, Keeping the service provided by you and in line with vide clause 8a of the Memorandum of Settlement signed among the parties concerned, employees having eligible son /son in law with Tenth standard as minimum qualification and with an age limit of thirty two years can be forwarded for the needful provided otherwise suitable.

With regards,

  
For S.M. ENTERPRISE

Copy forward for information to:

1. Senior Manager HR, HWSPL.

2. DDC / Haldia

3. Mr. Tilak Chakraborty, MLA, Mahishadal Legislative Assembly.

4. Mr. Shubash Sarkar, President (East Medinipur), INTTUC.



**S.M. ENTERPRISE**

Construction, Mechanical, Structural, Industrial Solutions.

GSTIN : 19ALIPM3148GIZY

60 -

Annexure - 111



Ref: SME/30/22-23

Date: 27.05.2022

Speed Post with A/D

To,

**Mr. Dinabandhu Das**

S/o Late Gourhari Das

Vill + P.O - Natshal

P.S - Mahishadal, Dist - Purba Medinipur

Pin - 721603, W.B

Posted at Geonkhali Old Water Treatment Plant,

Geonkhali, Mahishadal, Purba Medinipur, Pin 721603

**Subject:** Notice of Superannuation (Retirement) vide Cl 8.6 of MOS and recommendation vide Cl 8a.

We would like to inform you that as per your DOB in EPF/Other Documents as submitted to us it seems that you have attained age of 60 years as of 01.04.2022.

Subsequent to our briefing reminding you about the superannuation date and age of sixty years which you have crossed, we need to execute the normal process of superannuation and to start with, we have taken in consideration about those persons who have crossed sixty years as on 31<sup>st</sup> March 22 and hereinafter will follow as per set norms of attaining sixty years. Though this process is as per the norms and more specifically vide clause 8A of the MOS signed, we have initiated the process by communicating to all concerned and accordingly the superannuating persons will be released on June 30.

On 30.06.2022 we will officially record your retirement and relieve you from your duties. Your final settlement will be cleared along with the payroll subject to your signing off the final clearance sheet.

Moreover, Keeping the service provided by you and in line with vide clause 8a of the Memorandum of Settlement signed among the parties concerned, employees having eligible son /son in law with Tenth standard as minimum qualification and with an age limit of thirty two years can be forwarded for the needful provided otherwise suitable.

With regards,

For S.M. ENTERPRISE

Copy forward for information to:

1. Senior Manager HR, HWSPI.

2. D.L.C / Haldia

3. Mr. Titak Chakraborty, M.L.A, Mahishadal Legislative Assembly.

4. Mr. Subrata Saha, President (East Medinipur), INTTUC.

c 81 - Annexure P 12

To  
The Chief Executive Officer  
Haldia Development Authority,  
Debhog City Center, Haldia, Purba Medinipur

**Sub: Illegal Superannuation Notice Dt. 27.05.2022 Issued By The S.M. Enterprise In Haldia Water Supply Project.**

Dear Sir,

With due respect I state that a notice of superannuation was issued by the S.M. Enterprise to me whereby he has mentioned that my retirement date will 30th June 2022 and the final settlement will be cleared along with payroll subject to my signing off the final clearance Sheet.

That you being the principal employer you are well aware that a settlement under section 18 (1) of the Industrial Dispute Act 1947 and Rule 68(3) of the West Bengal Industrial disputes Rule, 1958 was made by a tripartite agreement though the majority of the workman did not know the content of the said illegal agreement as because the agreement was done by the choiceable leader of union.

In clause 8(a) of the said agreement stated that in case no member is found eligible for recruitment the working group will decide the retirement benefit and the PF & ESI will discontinued w.e.f. 01.01.2021. That the said agreement was finalized without any knowledge of majority of workmen violating the provision of law only to satisfy the contractor and sub-contractor.

I do not know whether any working group was formed and whether the agreement is acted upon or not and what decision was taken for retirement benefit after a long service in Haldia Water Supply Project . I do not know who will pay the service benefit and which amount that is not clear in that superannuation notice.

You are also aware that we are waiting for a decision of the appropriate Government on prohibitions the employment of contract labour in the Water Supply Project at Haldia u/s 10 (2) of the contract labour (Regulation & Abolition) Act 1970 and Rules.

You beings the public officer you should act fairly, reasonable and in accordance with law treet in the instant ease you are avoiding your duties as principal employer violating all the provision of labour law which is unfair labour practice.

I am ready to accept the superannuation on without prejudice my rights and contention of decision of appropriate Government in case wp no. 254 (w) of 2011 (Bipad Bhanjan Kalsa & ors Vs State of West Bengal & or) and after a decision of retirement benefit.

In that circumstances you are requested you let me know what retirement benefit is given to me after retirement forthwith foiling which I shall take legal action against you for redress before the appropriate for us and you will be liable for all circumstances.

**Encl:-**

i) Notice Dt.

Your's faithfully,

Bimal Kumar Gole

- Copy to:
- i) Deputy Labour Commissioner & Asst. Labour Commissioner  
Basudevpur, Khanjanchak, Haldia, Purba Medinipur  
Please take necessary steps forthwith.
  - ii) Chief manager  
HR & IR,  
Haldia Water Services Pvt. Ltd.  
Webel City Center Debhog, Haldia, Pruba Medinipur
  - iii) BCL Secure Premises Pvt. Ltd.  
Indian Power Corporation Ltd. Building  
Plot No.- X1,2& 3, Block- Ep, Sec- V,  
Salt Lake city, Kolkata -700091.
  - iv) SME SM Enterprise  
Contruccion Mechanical Structure Industrial Solutions  
GSTIN- 19ALIPM3148GIZY
  - v) Ambika Enterprise  
Basudevpur, Khanjanchak, Haldia.

For information

RECEIVED  
Date 08/06/22

District - Purba Medinipur

In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

✓  
Has no...  
30/06/22  
An...  
ADVOCATE / CLERK

WPA No. / 377 / of 2022

In the matter of :

An Application under Article 226 of  
the Constitution of India;

And

In the matter of :

Chandrasekhar Sarkar & Ors.

...Petitioners

- Versus -

The State of West Bengal & Ors.

...Respondents

PETITION

Mohini Mohan Beral  
Advocate  
High Court, Calcutta  
Bar Association, Room No. 16