ID No. 13/2022

31st August, 2022

Present : Shri Rajiv Agarwal & Shri N. Bhushan, A/R for the claimant with the claimants.
Shri Vedansh Anand, Ld. A/R for the managment no. 1 i.e NIELIT.
None for the management no. 2.
Shri Rishikesh Kumar, Ld. A/R for the management no. 3 i.e CEO.

Reply to management no. 3 CEO application O1 R10 has been filed by the A/R for the claimant. Copy of the same served to management CEO. Call the matter on 12.09.2022 for hearing on O1R10 application.

Presiding Officer
31st August, 2022.

12th September, 2022

Present: Shri Rajiv Agarwal & Shri N. Bhushan, A/R for the claimant with the claimants.
Shri Vedansh Anand, Ld. A/R for the managment no. 1 i.e NIELIT.
None for the management no. 2.
Shri Rishikesh Kumar, Ld. A/R for the management no. 3 i.e CEO

Arguments on O1R10 application heard at length.
Put up on 23.09.2022 for orders.

Presiding Officer
12th September, 2022

23/09/2022

Present:- Shri Rajiv Agarwal & Shri N. Bhushan, A/R for the claimant with the claimants.
Shri Vedansh Anand, Ld. A/R for the managment no. 1 i.e NIELIT.
None for the management no. 2.
Shri Rishikesh Kumar, Ld. A/R for the management no. 3 i.e CEO.

This order deals with an application filed under O1R10 of the CPC by the management i.e. the Chief Electoral Officer Government of NCT Delhi. Copy of the petition being served on the claimant the hearing commenced wherein both the parties participated and advanced their respective argument. The management no. 1 NIELIT while filing written statement has pleaded that it is an organisation who trains the DEOs and provides the said trained personnel's to the different government department on demand for which it enters into a

contract. The said DEOs are deployed on contract basis as per the requirement of CEO. The contracts between the NIELIT and CEO having been expired and the new contractor being inducted, the NIELIT is not a necessary party for this proceeding. As such in the written statement it has prayed for deletion of its name.

The reference has been received from the appropriate government to adjudicate if the employer and employee relationship exists between the workers and the management of office of the Chief Electoral Officer / Department of Information Technology GNTCD and if the action of the management that is the office of the Chief Electoral Officer, department of Information technology, GNTCD and NIELIT in terminating the service of the workman is legal and justified.

In the application the respondent CEO has pleaded that the statement of the claim and the annexed documents clearly shows that the claimants are employed in the district election office through NIELIT. Those district election officers are the head of the department of the respective districts and the DEOs have been engaged at their level on out sourcing basis through NIELIT. The work of the said DEOs are being monitored and supervised by the district election officer. As such, the CEO has nothing to do with their employment. Hence, the respondent CEO has prayed for deletion of its name from the proceeding and impleadment of the district election officer as a necessary party.

The claimants have all along pleaded that they are the employees of the Chief Electoral Officer and are working under the overall supervision and control of the said management though deputed to work in the different offices like District Election Office, Electoral Registration Office e.t.c. It is the claim of the workman that the Chief Electoral Officer Government of NCT is the Principal Employer and the relief has been sought for regularization of their service with retrospective effect and equal pay for equal work from the said management. But in the petition filed under O1R10 of the CPC the management Chief Electoral Officer has pleaded that the Chief Electoral Officer Delhi has been unnecessarily made a party in this proceeding though the pleading of the claimants is clear to the extent that they were selected through a third party i.e NIELIT. It has also been stated that the claimants are working in the office of District Election Officer which are under the administrative control of the CEO who are not authorized to appoint the DEOs to attend the work in their zone. In their reply the claimants have also stated that the petition is not maintainable in as much as the reference has been made by the appropriate government to adjudicate if there exists employer and employee relationship between the Chief Electoral Officer and the claimants. It has also been stated that Chief Electoral Officer is the

Nodal Authority under whose supervision and control the District Election Officers and Assistant Election Officers work. Merely because some of the claimants are working in the premises of the District Election Officer it cannot be said at this stage that the Chief Electoral Officer is not the employer of the claimants.

On hearing the argument advanced by all the parties and on perusal of the reference received from the appropriate government it is found that the employer and employee relationship between the claimants, the Chief Electoral Officer and NIELIT being an issue for adjudication of the proceeding the name of the Chief Electoral Officer and NIELLIT cannot be deleted as they are necessary parties for complete and effective adjudication of the dispute. Similarly, there being no evidence at this stage to presume that the claimants were appointed by the district election officer the later cannot be impleaded as a proper party to this proceeding. The petition filed under Order 1 Rule 10 CPC by the CEO is rejected for the aforesaid reasons. The stand of the respondent NIELIT for deletion of its name is not accepted.

Written statement has already been filed by the management no.1 NIELIT. But W.S by 2 and 3 are yet to be filed. Call the matter on 10.10.2022 for written statement by management no. 2 and 3. It is directed that the mgt no. 2 & 3 shall serve the copy of the written stamen on the claimant as well as on management no. 1 Similarly the management no. 1 is directed to serve a copy of a w.s on mgt no. 2 and 3. This direction is being given for the conflicting stand taken between management no. 1 and 3.

Presiding Officer
23/09/2022