



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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No. 477 Dispur, Tuesday, 1st July, 2025, 10th Ashadha, 1947 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LABOUR WELFARE DEPARTMENT

NOTIFICATION

The 26th June, 2025

ECF No.668898/6.- Whereas dispute between the Management of Lakhipriya Devi Baruani Children Park -VS- Smti Anjali Sarma was referred to the Presiding Officer, Labour Court, Guwahati constituted under the Industrial Dispute Act, 1947 for adjudication and whereas an Order has been given on the dispute by the said Labour Court vide Ref. Case No.01/2025, Order dated 20.6.2025 as shown in the Annexure hereto.

Now, therefore, in exercise of the powers conferred by Section 17(1) of the Industrial Disputes Act, 1947 (Act. XIV of 1947) as amended, the Governor of Assam, is pleased to direct that the said Order to publish by notifying at the Office of the Labour Commissioner, Assam.

(O R D E Rsin the Annexure)

ABHIJIT BARUAH,
Secretary to the Government of Assam,
Labour Welfare Department.

**IN THE LABOUR COURT OF ASSAM
KAMRUP (M) :: GUWAHATI**

Misc. Ref Case No.- 01/2025
(i/c with Reference Case No.-01/2023)

The Management of Lakhipriya
Devi Baruani Children Park

.....**Petitioner**

Versus

Smt. Anjali Sarma

..... **Respondent**

Advocate for the Petitioner : Smt. Anakshi Neog, Smt. Nibedita Das

Counsel for the Respondent : Sri Basanta Kalita

Date of Order : 20-06-2025

BEFORE

Sri Lohit Kumar Saikia, Presiding Officer, Labour Court, Guwahati.

ORDER

Both parties are duly represented.

Seen petition No. 206/25 filed by the petitioner praying to dismiss the instant reference case No. 01/2023 and all proceedings there under.

Also seen the objection filed by the respondent/ workman against the petitioner filed by the petitioner.

Vide Petition No. 206/25 the petitioner has submitted that the management body of the park referred to is a registered society which is formed and managed by a group of senior citizens with the objective of providing avenues to children for games and sports and facilities for entertainment and does not engage in any industrial, commercial or manufacturing activity as envisaged under the Industrial Disputes Act.

That the park is managed by a Management committee and its financial resources are drawn from the annual fees of the members, a nominal entry fees of children and adults and occasional programmes by neighboring primary schools on payment of a nominal fee and that for the smooth functioning of the park three temporary employees have been engaged namely an electrician, a care taker and a ticket seller at the gate counter. The applicant is thus running with only three employees and as such the applicant falls under the exception 9 of Sec 2 (j) which excludes any activity carried on by a co-operative society or a club or anybody of individuals, if the number of persons employed by the co-operative society, club or other like body of individual in relation to such activity is less than ten.

That the applicant further states that with three numbers of employees does not fall under the purview of an industry and hence the opposite party is not a workman under the act.

On these grounds the petitioner has prayed to dismiss the instant reference case No. 01/2023 and all proceedings there under.

The counsel for the respondent has vehemently denied the allegations as levelled by the petitioner and has prayed before this Court to confine its adjudication as per Section 10 (4) of the Industrial Disputes Act.

At this stage without discussing the merit of the matter, the Court, before passing any order is duty bound to discuss contents of the applications filed by both the parties as well as the provisions of law as confined by the Industrial Disputes Act.

In the context of the present case, the main ground for filing the instant suit is that the workman was illegally retrenched from her service by the Management of LDBC Park on 03-08-2011 without compliance of the conditions precedent to a workman which is clear violation of Section 25-F of the Industrial Disputes Act.

Now the moot question arising at this position as per the petition filed by the petitioner is that whether the suit is maintainable in present form and manner?

Perusal of the plaint reveals that the counsel of the respondent in his reply to the petition filed by the petitioner has prayed before this Court to confine its jurisdiction as per Section 10(4) of the Industrial Disputes Act.

Sec 10(4) of the Industrial Disputes Act states that:-

“Where in an order referring an industrial dispute to] *[Inserted by Act 18 of 1952, Section 3.]* [a Labour Court, Tribunal or National Tribunal] *[Substituted by Act 36 of 1956, Section 7, for " a Tribunal" (w.e.f. 10.3.1957).]* [under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication,] *[Inserted by Act 18 of 1952, Section 3.]* [the Labour Court or the Tribunal or the National Tribunal, as the case may be,] *[Substituted by Act 36 of 1956, Section 7, for " the Tribunal" (w.e.f. 10.3.1957).]* [shall confine its adjudication to those points and matters incidental thereto.”

In the context of the definition of Section 10(4) of Industrial Disputes Act it is crystal clear that the abovementioned sections refers to any institution or group of business. It can be a specific sector of the economy, like manufacturing, service provision, or resource extraction. Businesses within the same industry often compete with each other and are affected by similar economic factors.

Now, a park cannot be termed as an industry as parks are typically public spaces for recreation and nature preservation that is set aside for recreational activities, conservation of natural resources or to preserve natural beauty and thus falls under the exception of Section 2 (j) of Industrial Disputes Act designed to exclude activities that are not primarily commercial, profit-driven, or based on a traditional employer-employee relationship. This ensures that the Act's provisions, designed to address industrial disputes and worker protections, are applied appropriately and avoid being inappropriately extended to activities that are fundamentally different in nature.

Situates thus, in view of the above discussion, this Court is of the considered opinion that the respondent/ workman has failed to establish a case in her favour by substantiating her claim.

Accordingly, Petition No. 206/25 is allowed and the instant case is dismissed and disposed of on contest.

L. K. SAIKIA,
Presiding Officer,
WAKF Tribunal, Kamrup (M).