
(2013) 08 MP CK 0219
In the Madhya Pradesh High Court
Case No : Writ Petition 6699 of 2012 (PIL)

Ashok Goswami

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 27-08-2013

Acts Referred:

Building and Other Construction Workers (Regulation of Employment and Conditions of Services) Act, 1996 — Section 62

Citation : (2014) 140 FLR 929 : (2013) 5 LLN 640 : (2014) LLR 203

Hon'ble Judges : S.K. Gangele, J;M.K. Mudgal, J

Bench : Division Bench

Advocate : Prashant Sharma, for the Appellant; Vivek Khedkar, D.A.G. for Respondents 1 and 6/State and Shri Brijesh Sharma, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard counsel. Grievance of the petitioner in this public interest litigation is that the provisions of Building and other Construction Workers" (Regulation of Employment and Conditions of Service) Act, 1996 [for brevity, the "Act"], have not been complied with. Various workers had made applications before the competent authority for grant of benefit in accordance with the provisions of the Act, however, those applications have not been decided. It is further submitted that an appeal was filed by 21 persons against certain orders before the appellate authority and the appellate authority vide its order dated 12th June, 2012 (Annexure P/2) has observed that the applications filed by the workers were not decided. It is further submitted that the authorities have not passed proper orders on the applications and the applications were not considered in accordance with law.

2. Aforesaid facts have been denied by respondent No. 7 by filing a separate return and the State in its return filed on behalf of respondents 1 to 6. It is submitted that there is no application pending after December, 2012.

3. Hon''ble the Supreme Court in the case of National Campaign Committ., C.L. Labour Vs. Union of India (UOI) and Others, has issued following instructions in regard to implementation of the Act to All the Chief Secretaries, viz.

(8) The State Governments and Union Territories which have not framed the rules as per Section 62 of the Act can very well take the Delhi Building and other Construction Workers" (Regulation of Employment and Conditions of Service) Rules, 2002, as a model and the same can be adopted for the purpose of this Act. Copy of the same is available on the internet and the same can be had from the Government of Delhi.

(9) We direct the Chief Secretaries of the respective States and the Secretary (Labour) of each State and Union Territories to take timely steps as per the provisions of the Act, if not already done. We would like to have the appraisal report in the first week of May as to what steps have been taken in this regard. If any of the State Government has not done anything pursuant to this Act, urgent steps are to be taken so that the benefit of this legislation shall not go waste. Otherwise, the unorganised workers of the construction sector will be denied the benefits of the Act.

(10) Post in the 1st week of May, 2009. A copy of the order be sent to the Chief Secretaries of all the States and Secretary (Labour) of each State and the Union Territories for taking further action in this regard.

4. Further directions have been issued by Hon''ble the Supreme Court in the same case vide its order in National Campaign Committee for Central Legislation on Construction Labour Vs. Union of India (UOI) and Others, as under:

4. After hearing the learned counsel, we are of the view that the following measures require to be implemented by the States without further delay:

1. The Welfare Boards have to be constituted by each State with adequate full time staff within three months.

2. The Welfare Boards will have to meet at least once in two months or as specified in the rules, to discharge their statutory functions.

3. Awareness should be built up, about the registration of building workers and about the benefits available under the Act. There should be effective use of media, AIR and Doordarshan, for awareness programmes regarding the Act, the benefits available thereunder and procedures for availing the benefits.

4. Each State Government shall appoint registering officers and set up centers in each district to receive and register the applications and issue receipts for the applications.

5. Registered trade unions, legal services authorities and NGOs are to be encouraged to assist the workers to submit applications for registration and for seeking benefits.

6. All contracts with the Governments shall require registration of workers under the Act and extension of benefits to such workers under the Act.

7. Steps to be taken to collect the cess under the Cess Act continuously.

8. The benefits under the Act have to be extended to the registered workers within a stipulated time-frame, preferably within six months.

9. The Member-Secretary of the Welfare Boards and the Labour Secretary shall be responsible for due implementation of the provisions of the Act. The Labour Ministry of each State shall carry out special drives to implement the provisions of the Act.

10. The CAG should audit the entire implementation of the Act and use of the funds.

11. All the Boards shall submit a comprehensive report as required under the Act and the Rules to the respective Government.

5. The above directions shall be brought to the notice of the Chief Secretaries of all the States by sending copies of this order to ensure effective implementation. Responses and compliance reports shall be filed by the States within a period of twelve weeks. As this Act is enacted by Parliament, the Labour Ministry of the Government of India is also requested to explore the possibility of a national conference for implementation of the provisions of the Act.

5. The authorities are under obligation to follow the aforesaid directions issued by Hon''ble the Supreme Court.

6. In this view of the matter, this writ petition (PIL) is disposed of with the following directions:

(I) That the directions issued by Hon''ble the Supreme Court be complied with, if there is any noncompliance, within a period of three months.

(II) That if any application is pending in regard to grant of benefit under the provisions of the Act, the same may also be decided in accordance with the provisions of the Act by the competent authority within a period of three months from the date of receipt of certified copy of this order.

Petition is disposed of with the aforesaid directions with no order as to costs.