

(1958) 05 GAU CK 0004
In the Gauhati High Court
Case No : Civil Rule No. 27/58

Banwarilal Chowkhani, Proprietor of Chowkhani Tea Seed Estates

APPELLANT

Vs

A.M. Deshmukhya, Addl. Dy. Commr. and Another

RESPONDENT

Date of Decision : 02-05-1958

Acts Referred:

Constitution of India, 1950 — Article 226
Minimum Wages Act, 1948 — Section 12, 2, 20, 5

Citation : AIR 1958 Guw 155

Hon'ble Judges : Haliram Deka, J;G. Mehrotra, J

Bench : Division Bench

Advocate : P.K. Goswami and S.R. Khaund, for the Appellant; D.N. Medhi, Sr. Govt. Advocate, for the Respondent

Judgement

H. Deka, J.—This is an application under Article 226 of the Constitution for an appropriate writ quashing the order of Mr. A.M. Deshmukhya, Additional Deputy Commissioner working as an Authority under the Minimum Wages Act. The order impugned is dated 29-1-1958. As a matter of fact the order does not amount to disposal of the case finally but the writ petition is against the order entertaining the complaint u/s 20 of the Minimum Wages Act. The facts shortly put are that the Petitioner is a proprietor of Chowkhani Tea Seed Estate comprising of an area of less than twenty-five acres of land, (the exact area is not stated) where tea seed plants are grown only for the purpose of collecting seeds and for a part of the season and it is alleged that only part-time labourers are engaged for the purpose. The local Government Labour Officer submitted an application u/s 20 of the Minimum Wages Act to the Additional Deputy Commissioner, Lakhimpur on 3-9-57 alleging that the Petitioner was not paying the minimum rate of wages fixed by the Government to the labourers engaged by him for the purpose of work in the Estate between 30-3-1952 and 12-4-1957 and the owner has violated provisions of Section 12 of the Minimum Wages Act.

He estimated the relief at Rs. 7,500/- and also claimed compensation amounting

to Rs. 75,000/-. The proprietor of the Tea Seed Estate showed cause against this application and questioned the jurisdiction of the learned Additional Deputy Commissioner to entertain the application and contended that the employment in the Tea Seed Estate was not a "scheduled employment" under the Minimum Wages Act. He further contended that the application was barred by time. The learned Additional Deputy Commissioner decided the point of limitation partly in favour of the Petitioner and partly against him but on the other hand rejected the contention that he had no jurisdiction to entertain the application on the ground that the labourers in Tea Seed Estate could not be said to be in scheduled employment.

He held on the other hand that the Minimum Wages Act applied and he had jurisdiction to entertain the application. Against this order the Petitioner has come up to this Court and has contended inter alia that the order of the Additional Deputy Commissioner working as authority under the Minimum Wages Act is without jurisdiction to the extent that he held that the Minimum Wages Act applied in the present case.

2. The term "scheduled employment" is defined in Section 2(g) of the Minimum Wages Act, which runs as follows:

"Scheduled employment" means an employment specified in the schedule, or any process or branch of work forming part of such employment.

The schedule referred to in the definition gives several items of which item No. 4 runs as follows:

4. Employment in any plantation, that is to say, any estate which is maintained for the purpose of growing cinchona, rubber, tea or coffee.

The contention that has been raised to the effect that the schedule under the Minimum Wages Act has no application to a Tea Seed Estate rests mainly on the interpretation of item 4 as quoted above, namely as to whether the employment in any plantation or any estate which is maintained for the purpose of "growing tea" would cover any estate which is maintained for the purpose of growing tea for the purpose of collecting seeds and not for manufacture of commercial tea. The contention that has been raised by Mr. Goswami on behalf of the Petitioner is that the word "tea" occurring in the item above should be interpreted as commercial tea or manufactured tea or tea leaves which are known popularly as "tea".

Mr. Goswami has tried to reinforce his argument by referring to the Government notifications under the Minimum Wages Act, that till now the Government has been issuing relevant notifications u/s 5 of the Minimum Wages Act only for the purpose of the labourers who had been working in tea estates where tea is manufactured as an industry. Another argument that Mr. Goswami advances is that this whole schedule applies only to industrial concerns and not to any agricultural concern for which there is different schedule. We must say that none

of these contentions impresses us. In our view the words "for the purpose of growing tea" would mean growing tea plants no matter whether for the purpose of collecting leaves or for the purpose of collecting seeds.

The word "growing" would only mean growing the plants and maintaining and nursing them, which are also the circumstances in case where tea has to be reared up for the purpose of plucking seeds and not leaves. We do not think the word "tea" bears any other limited interpretation in the context in which it occurs in item 4. The other contention also that this schedule applies only to the employment in industry, is not correct because item 6 itself would show that it refers to employment under any local authority. In matters of interpreting a statute, we need not go to see what a popular sense is but we must try to understand what the intention of the legislature is. In this case, the words "growing of cinchona, rubber, tea or coffee" meant only growing plants of tea, coffee or cinchona etc. for ulterior purposes.

In case it was intended that tea would mean only commercial tea or the tea that is used for consumption as a beverage the statute would have made it clear. In the absence of any such expression we must hold that the word "plantation estate" would include a tea seed estate run solely for the purpose of growing and maintaining tea plants or tea shrubs for production of seeds. In this view this objection in our opinion has not much force and the learned Additional Deputy Commissioner was correct in holding that the Minimum Wages Act applied to the labourers employed in a tea seed estate provided other conditions would satisfy the application of the Act. Mr. Goswami has further argued that the acreage was too small in this case for calling it a plantation, but the area has no material bearing on the point at issue.

3. There has been a feeble contention raised on behalf of the Petitioner that we should for ourselves decide whether the notifications heretofore published should apply to the estate of the Petitioner. Since this point has not been considered by the authority on its merit we do not think we should express any opinion whatsoever and the point is kept entirely" open and all that we decide is that this Act has application to a tea seed estate like the one that is maintained by the Petitioner, The petition is dismissed with costs: hearing fee Rs. 100/-.

G. Mehrotra, J.

4. I agree.