
(2002) 04 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No. 6751 of 2001

Bhanusimha Y.P. and Others

APPELLANT

Vs

Labour Enforcement Officer (Central) and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 12, 23, 24, 28
Industries (Development and Regulation) Act, 1951 — Section 2 (a) (i)

Citation : (2002) 95 FLR 635 : (2002) 3 LLJ 705

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : B.C. Prabhakar, in W.P. No. 6751/2001 and Sree Ranga Associates in W.P. Nos. 4820-21/2000, for the Appellant; Ashok S. Mensinkai, for Respondents 1, 3 and 4 in W.P. No. 6751/2001 and Ashok S. Mensinkai, for Respondents 1, 3 and 4 and S. Dore Raju, ACGS in W.P. Nos. 4820-21/2000, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—The petitioner, in the first writ petition, is a unit of Larsen and Toubro Ltd., which is the principal employer. The petitioners in the connected writ petitions are labour contractors who have obtained licences u/s 12 of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "the Act"). They are engaged by the unit of the principal employer. The first respondent-Labor Enforcement Officer (Central) is the Inspector appointed u/s 28 of the Act. He inspected the unit and found certain lapses on the part of the petitioners punishable under Sections 23 and 24 of the Act. He, therefore, lodged complaints before the jurisdictional magistrate praying to take cognizance of the offences and to impose fine. The learned magistrate issued summons to the petitioners. Hence, the petitioners have filed these writ petitions seeking to hold that the "appropriate Government" is the State Government and not the Central Government in respect of the petitioner unit and to quash the proceedings pending before the Magistrate.

2. According to the petitioners, the proceedings initiated by the first respondent are without jurisdiction as the State Government is the appropriate Government so far as the petitioner-unit is concerned. Mr. B.C. Prabhakar, learned counsel for the petitioners placed reliance upon a notification dated November 8, 1977, declaring the cement industry a "controlled industry" u/s 2(a)(i) of the Industries (Development and Regulation) Act to contend that the petitioner-unit at Perambur is a packing unit and hence the same cannot be construed as "controlled industry" even though the principal employer can be so construed. The contention is wholly untenable. As per Section 2(1)(a) of the Act, the "appropriate Government" in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government. The petitioner-unit cannot be separated from its principal employer. The cement industry is inter-dependent upon the packing unit. The packing unit is not a separate legal entity. It is not an independent establishment. There is functional integrality between the two. The six "M" components (management, men (workmen), money, material, machinery and market) required for running manufacturing unit are the same. Whatever income or expenditure relating to the packing unit will be included in the balance-sheet of the principal employer. Therefore, the petitioner-unit cannot be isolated for applying the provisions of a particular enactment. Hence, the notification dated November 8, 1977 is applicable only to the cement manufacturing establishment and not applicable to packing or re-packing unit, is baseless and liable to be rejected.

3. Counsel for the petitioners placed reliance upon Section 25 of the Act to contend that the Inspector appointed by the third respondent-State Government has received application, considered the same and issued licences to the labour contractors and, therefore, the "appropriate Government" in their case is the State Government. Otherwise, it is submitted that the labour contractors would have approached the Central Government. This contention is also untenable. The show-cause notice was issued for the contravention of the provisions of the Act. The principal employer is the "controlled industry" and the unit at Perambur is part of the same. It is inseparable. Therefore, the "appropriate Government" is the State Government cannot be accepted. If the interpretation sought to be placed by the petitioners is accepted, it leads to confusion and results in absurdity. Consequently, there will be two authorities, two types of rules and regulations and two formats in respect of the same industry. That is not the intention of the law-making authorities. Hence, the contention is rejected.

4. The first respondent initiated proceedings against the petitioners for the alleged offences committed by them under the provisions of the Act. The learned magistrate has rightly taken cognisance of the same and issued summons. This Court cannot interfere with the same and quash the proceedings in writ jurisdiction. The petitioners have to face the proceedings. They cannot escape by raising technical grounds.

5. For the reasons mentioned above, the writ petitions are dismissed.

6. Since no date is given by the magistrate for the appearance of the petitioners, the magistrate shall issue fresh summons to them and proceed with the cases in accordance with law.