
(1994) 05 MP CK 0014
In the Madhya Pradesh High Court
Case No : M.P. No. 763 of 1994

Dayal Laminates Pvt. Ltd.

APPELLANT

Vs

L.K. Pandey, Deputy Labour Commissioner and Another

RESPONDENT

Date of Decision : 05-05-1994

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (1995) 70 FLR 197 : (1995) 2 LLJ 165

Hon'ble Judges : Asha Ram Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

A.R. Tiwari, J.—The petitioner is a company incorporated under the provisions of the Indian Companies Act, 1956. It is engaged in the business of manufacture and sale of laminates. The respondent No. 1 issued a show-cause notice to the petitioner on March 29, 1994 (Annexure- "P/2") directing the petitioner to show-cause till April 4, 1994 as to why the revenue recovery certificate for the recovery of Rs. 21,620.30 p. be not issued against it. The petitioner could not show the cause because this notice itself was served on the petitioner only on April 6, 1994. The respondent No. 1, however, on April 4, 1994 itself passed the order against the petitioner (Annexure-"P/3") directing recovery of the aforesaid sum under Sub-section (1) of Section 33C of the Industrial Disputes Act, 1947 through Revenue Recovery Certificate. The petitioner on April 12, 1994 wrote (Annexure-"P/4") to respondent No. 1 complaining that the notice was served only on April 6, 1994 and as such the petitioner was denied the opportunity of hearing. This letter of April 12, 1994 remained unresponded and the order Annexure-"P/3" was not withdrawn. Aggrieved by Annexure-"P/3", the petitioner has filed this writ petition for appropriate relief.

2. The counsel for the petitioner submits that the order Annexure-"P/3", impugned in this writ petition is arbitrary and violative of the principles of natural justice.

3. In the face of the aforesaid position of non-service of notice, the Government Advocate has no objection if appropriate relief is granted to the petitioner.

4. The order Annexure "P/3" clearly demonstrates the haste with which it was passed on April 4, 1994 itself without caring to ascertain whether Annexure "P/2" was at all served on the petitioner or not. Evidently this order was passed without giving reasonable opportunity of hearing to the petitioner. The object behind Annexure-"P/2" was to afford the petitioner reasonable opportunity of being heard. If such a notice is not served on time, the object sought to be achieved by Annexure "P/2" had stood frustrated. On receipt of Annexure "P/4" the respondent No. 1 should have realised the infirmity and should have taken steps to remedy the situation. This was, however, not done.

5. The order affecting an individual is required to be passed consistent with the principles of natural justice. In the instant case there is clear violation of the principles of natural justice. The order, therefore, suffers from the vice of arbitrariness.

6. In the result the order Annexure- "P/3" cannot be sustained in law. It is accordingly set-aside. The petitioner is now granted ten days time from today to show-cause against Annexure- "P/2" before the respondent No. 1. The respondent No. 1 shall thereafter decide the question afresh after consideration of the reply under intimation to the petitioner. Needless to say that opportunity of hearing shall be given to both sides. The petition is, thus, allowed in terms indicated above with no order as to costs.