
(2003) 02 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 1866, 1871, 2172 and 2173 of 2002

Godrej Soaps Ltd.

APPELLANT

Vs

Mukut Singh Chandel and Others

RESPONDENT

Date of Decision : 17-02-2003

Acts Referred:

Madhya Pradesh Industrial Relations Act, 1960 — Section 1(3)

Citation : (2003) 97 FLR 874 : (2003) 1 JLJ 389 : (2003) 2 MPHT 65 : (2003) 2 MPLJ 555

Hon'ble Judges : S.S. Jha, J

Bench : Single Bench

Advocate : B.S. Bais, for the Appellant; Prashant Sharma, for the Respondent

Final Decision : Allowed

Judgement

S.S. Jha, J.

This judgment shall govern the disposal of W.P. No. 1866/2002, W.P. No. 2172/2002 and W.P. No. 2173/2002. Common question is involved in all four petitions that whether provisions of M.P.I.R. Act is applicable to the petitioner-firm, which manufactures soaps.

Respondent/workman has filed a petition in the Labour Court under the provisions of Sections 31, 61 and 62 of the M.P. Industrial Relations Act, 1960 (hereinafter referred to as "M.P.I.R. Act") regarding their removal from service. Petitioner has filed the reply and raised a preliminary objection that provisions of M.P.I.R. Act is not applicable to the petitioner/industry, therefore, no orders can be passed. Labour Court has held that in the notification u/s 1 of M.P.I.R. Act industries involved in manufacturing chemical and chemical products are governed by the provisions of M.P.I.R. Act and manufacture of soap is a manufacture of chemical product. Industrial Court has dismissed the appeal.

Section 1 of M.P.I.R. Act provides that the act extends to the whole of Madhya Pradesh and the State Government may, by notification, bring all or any of the

remaining provisions of this Act into force in respect of any or all industries or undertakings in any industry wherein the number of employees on any day, during twelve months preceding or on the date of the notification or on any day thereafter, was or is more than such number as may be specified in, such notification. First notification was issued on 31-12-1960. The notification provides that all the provisions of the said act other than Sections 1 and 112 shall come into force on 31-12-1960 in respect of undertakings in the industries specified in the Schedule below wherein the number of employees on any date during twelve months preceding or on the date of this notification or any day thereafter was or is more than one hundred. At Serial No. 24 Chemical and chemical product industry is mentioned. It may be mentioned that soap industry specifically is not mentioned in the notification. Another notification was published under Sub-section (3) of Section 1 on 31-12-1960 and which provides that all the provisions of the said Act other than Sections 1 and 112 thereof shall come into force on 31-12-1960, in respect of undertaking in the industries specified in the Schedule below wherein the number of employees on any date during twelve months preceding or on the date of this notification or any day thereafter was or is more than one hundred. At Serial No. 24 chemical and chemical product industry is substituted as chemicals specified in Item No. 19 of first schedule of the Industries (Development & Regulation) Act, 1951. Thus, two notifications have been issued and at S. No. 24 in place of chemicals and chemical products the word "chemicals" as specified in Item No. 19 of the First Schedule to the Act is substituted on 13-7-1963.

Counsel for the petitioner submitted that chemicals mentioned at Item No. 19 of the Schedule do not include soap industry. He submitted that soap industry is mentioned at Item No. 29 of the First Schedule to the Industries (Development & Regulations) Act, 1951 (hereinafter referred to as "Regulation Act"). He submitted that petitioner/industries does not fall within the meaning of chemical industry under the notification. In support of his contention petitioner referred to the judgment of this Court in the case of Mishra R.N. v. Works Manager, Burn & Co. Ltd., Niwar, reported in 1966 J.L.J. 308. In this case the notification dated 31-12-1960 and the Schedule therein was considered and it is held that the term "potteries", as used in the Schedule to the notification issued on 31st December, 1960 u/s 1 (3) of the Act, does not include a "refractory" engaged in the manufacture of fire-bricks, and therefore, the Act is not applicable to Burn and Co. Ltd. It is held in Para 4 of the judgment that the Act being a general statute, the words used therein must be construed in their popular sense. Again, as the Act does not apply to all industries or undertakings therein but only to those which the Government may select for being governed by the Act, the industries that may be specified in a notification u/s 1 (3) must be understood in a limited sense and not in a wider sense.

In the case of Member-secretary, Andhra Pradesh State Board for Prevention and Control of Water Pollution Vs. Andhra Pradesh Rayons Ltd. and Others, , the question of specified industry occurring in Water (Prevention and Control of

Pollution) Cess Act was considered and it was held that company manufacturing of synthetics or man made fabrics is not specified industry.

In the case of Jamul Cement Works, Jamul v. President, State Industrial Court, M.P., Indore and Ors., reported in 1968 MPLJ 95, the Division Bench of this Court has held that the notification issued u/s 1 (3) of the Act making it applicable to cement industry. Workers engaged for construction of factory for manufacturing cement cannot be deemed to be working in cement industry. In Para 5 of the judgment, it is held that the construction work is not something which follows or depends upon or appertains to the manufacture of cement as the primary activity. Referring to the judgment of Mishra R.N. (supra), wherein it is held that the Act does not apply to all industries or undertakings therein but only to those which the Government may select for being governed by the Act.

In the case of Samyukta Khadan Majdoor Sangh, Rajnandgaon v. Hindustan Steel Limited, Ranchi and Ors., reported in 1973 MPLJ 269, held in Para 17 as under:--

"The State Act, as expressed in its long title, is an Act to regulate the regulations of employees in certain matters, to make provision for settlement of industrial disputes and to prove certain other matters connected therewith; it covers the same field which is covered by the Central Act."

Respondents referred to the judgment in the case of Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others, , and submitted that the Act is very wide and it is applicable to all the industries and the industries includes soap industry. Therefore, provisions of the Act are applicable.

Learned Counsel for the respondents referred to judgment in the case of N.T. Veluswami Thevar Vs. G. Raja Nainar and Others, , and submitted that there should be harmonious construction of statute that if on its true construction, a statute leads to anomalous results, the Courts have no option but to give effect to it and leave it to the Legislature to amend and alter the law. But when on a construction of a statute, two views are possible, one which results in an anomaly and the other not, it is the duty of a Court to adopt the latter and not the former, seeking consolation in the thought that the law bristles with anomalies.

Petitioner referred to the judgment in the case of Ajaib Singh Vs. The Sirhind Co-Operative Marketing Cum-Processing Service Society Limited and Another, and submitted that the provisions of the statute should be interpreted in a manner which advances the objects contained in statement of objects and reasons of the Act. He has submitted that once the legislature has intended that the Act will be applicable to specified industry notified u/s 1 (3) of the Act no other industry can be brought within the ambit of the Act. It is true that the schedule does not include the soap industry. The question now remains to be examined whether the soap industry will fall at S. No. 24 of the Schedule and will be a chemical or not.

On bare perusal soap is not a chemical specified at Item No. 19 of the Schedule

of the Regulation Act.

The object of regulation act is to provide for the development and regulation of certain industries. The First Schedule is u/s 2 and Section 3 (i) of the Regulation Act. Section 2 relates to declaration as to expediency of control by the Union. It provides that the Union shall take under its control the industries specified in the First Schedule and Section 3 (i) of the Regulation Act defines the Schedule industry specified in the First Schedule. The notification to First Schedule includes the notification u/s 1 (3) which provides for the chemicals mentioned at Item No. 19 of the First Schedule of the Regulation Act. At Item No. 19; Chemicals (other than fertilisers) have been mentioned, they are as under :--

"19. Chemicals (other than fertilisers):

- (1) Inorganic heavy chemicals.
- (2) Organic heavy chemicals.
- (3) Fine chemicals including photographic chemicals.
- (4) Synthetic resins and plastics.
- (5) Paints, varnishes and enamels.
- (6) Synthetic rubbers.
- (7) Man-made fibres including regenerated cellulose-rayon, nylon and the like.
- (8) Coke over by-products.
- (9) Coal-tar distillation products like, naphthalene, anthracene and the like.
- (10) Explosives including gunpowder and safety fuses.
- (11) Insecticides, fungicides, weedicides and the like.
- (12) Textile auxiliaries,
- (13) Sizing materials including starch.
- (14) Miscellaneous chemicals.

From the definition of Item No. 19 itself it is apparent that none of the chemicals mentioned in Schedule 19 includes soap industry. The contention of Counsel for petitioner relying upon the definition of soap in Encyclopedia of Britannica that the soap is an inorganic chemical cannot be accepted in the light of specific notification u/s 1 (3) of the Act. It is clear that the chemicals mentioned at Item No. 19 does not include soap industry, whereas in the same Schedule of the Regulation Act at Item No. 29 soap industry is referred as other than chemical. Thus, under the Regulation Act soap, cosmetics and toilets products do not fall within the definition of chemicals at Item No. 19 of the Schedule.

Therefore, considering the intent to legislation it is clear that soap industry has

not been notified by the State Government u/s 1 (3) of the M.P.I.R. Act. As such the provisions of M.P.I.R. Act are not applicable to petitioner/industry which is involved in manufacture of soap.

In the result the proceedings before Labour Court under M.P.I.R. Act are not applicable and are hereby quashed. Petitions succeed and are allowed without any order as to costs.