

**(1995) 01 P&H CK 0064**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 12972 of 1994**

|                                             |            |
|---------------------------------------------|------------|
| Halwasiya Free Chikitsalya Ayurvedic        | APPELLANT  |
| Vs                                          |            |
| Authority Appointed under Minimum Wages Act | RESPONDENT |

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**Date of Decision :** 18-01-1995

**Acts Referred:**

Minimum Wages Act, 1948 — Section 20(3)

**Citation :** (1995) 110 PLR 120

**Hon'ble Judges :** S.S. Sudhalkar, J; R.P. Sethi, J

**Bench :** Division Bench

**Advocate :** Vanita Sapra, for the Appellant; Arun Nehra, for the Respondent

**Final Decision :** Dismissed

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## Judgement

R.P. Sethi, J.—Aggrieved by the order of the authority under the Minimum Wages Act 1948, the present petition has been filed with the prayer for quashing the ordered Annexure P/I mainly on the ground that the notification dated 17.12.1990 is not applicable in the case of the petitioner. It is submitted that the petitioner's dispensary is not a Hospital or Nursing Home within the meaning of the aforesaid notification. It is alternatively prayed that even if the petitioner is held to be Hospital, the impugned order imposing five times compensation is excessive and unreasonable.

2. It is true that the term "Hospital" has neither been defined in the Minimum Wages Act, (for short the "Act") or in the notification dated 17.12.1990. Hospital according to the ordinary dictionary meaning is a place or an institution in which patients or injured are given medicine or surgical care either in whole or in part at public expense by Charity. According to Webster's New International Dictionary it means to be a place for the care of treatment of sick, wounded, infirm or aged persons. According to the Shorter Oxford English Dictionary, the Hospital means an institution for the care of the sick and wounded, or of those who require medical treatment. It would also mean a place where sick person is placed for the purposes of hospitalisation. For a place or an institution to become

a hospital for the purposes of the aforesaid circular no specific condition regarding the nature and extent of the treatment is contemplated. The number and extent of the staff is also not relevant for the purposes of deciding as to whether the petitioner-institution is a hospital or not. The mere fact that all the staff as indicated in the circular, Annexure P/2, is not employed in a particular institution would not render it not to be a hospital for the purposes of the Act for the fixation of minimum wages. The Hospital may have incidental feature such as training of nurses and the instruction of medical students but in the absence of incidental facilities, an institution cannot be held to be not a Hospital. It is also not necessary that the Hospital for the purposes of the Act should be run for profit or commercial purposes because Hospital as contemplated under the Act and the Circular is an institution for the care of sick wounded, infirm or aged persons.

3. The contention of the learned counsel for the petitioner that to attract the provisions of the circular (Annexure P/2), the Hospitals contemplated under the Act is only such hospital where all categories of workers specified in the schedule there- to are employed is without any substance and if accepted would defeat the very purpose of the enactment meant for providing minimum rates of wages for the persons specified in the schedule.

4. The preamble of the Act suggests that it has been enacted to make provision for minimum wages in whole employment and to provide machinery for enforcement of payment of such wages. The statement of objects and reasons as published in the Gazette of India dated 20.4.1946, part V at page 331 shows that the enactment was necessitated on recognition of the poor workers' organisation and their bargaining power being poor. The items in the schedule of the Act are those where sweated labour is most prevalent or where there is a big chance of exploitation of labour. Vide amending Act (XXX of 1975) a provision was made to secure uniformity in the procedure followed for fixation and revision of wages u/s 5, to enable the Claims Authority to entertain claims not only in respect of payment of wages which are less than the minimum wages but also in respect of remuneration for days of rest and payment of overtime wages (Section 2C), to provide for the application of the Payment of Wages Act, 1936, to claims relating to delay in payment of wages or non-payment of wages (Section 22-F), to specify the persons liable to punishment in the case of offences by companies and to make a general provision for punishment of offences for which no penalty is provided in the Act (Section 22 A) and to ensure prompt disbursement of wages to labour employed by Government contractors by exempting from attachment certain assets of such contractors in the hands of the Government. The provisions are intended to achieve the object of doing social justice to workmen employed in the scheduled employments. The legislative policy envisaged under the Act is a statutory fixation of minimum wages with a view to obviate the chances of exploitation of labour. The Act is intended to achieve the termination of exploitation of labour by authorising the appropriate government to take steps for prescribing minimum rates of wages in the scheduled industries.

5. The object of the Act was considered by the Supreme Court in "M.P. Mineral Industry Association v. R.L. Commissioner, AIR 1960 S.C. 1086 wherein the Apex Court had held:-

"It is true that the provisions of the Minimum Wages Act are intended to achieve the object of doing social justice to workmen employed in the scheduled employments by prescribing minimum rates of wages for them, and so in construing the said provisions the Court should adopt what is sometimes described as a beneficent rule of construction. If the relevant words are capable of two constructions preference may be given to that construction which helps to sustain the validity of the impugned notification; but it is obvious that an occasion for showing preference for one construction rather than the other can legitimately arise only when two constructions are reasonably possible, not otherwise...."

Similarly in Y.A. Mamarde and Nine Ors. and Ghanshyam and Others Vs. Authority under the Minimum Wages Act (Small Causes Court) Nagpur and Another, , the Apex Court held:-

"...The object of the Act as stated in the preamble is to provide for fixing minimum rates of wages in certain employments and this seems to us to be clearly directed against expectation of the ignorant, less organised and less privileged members of the society by the capitalist class. This anxiety on the part of the society for improving the general economic condition of some of its less favoured members appears to be in supersession of the old principle of absolute freedom of contract and the decree of laissez faire and in recognition of the new principles of social welfare and common good. Prior to our constitution this principle was advocated by the movement for liberal employment in civilised countries and the Act which is a pre-constitution measure was the offspring of that movement. Under our present Constitution the State is now expressly directed to endeavour to Secure to all workers (whether agricultural, industrial or otherwise) not only bare physical subsistence but a living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure. This Directive Principle of State Policy being conducive to the general interest of the public and, therefore, to the healthy progress of the nation as a whole, merely lays down the foundation for appropriate social structure in which the labour will find its place of dignity, legitimately due to it in lieu of its contribution to the progress of national economic prosperity. The Act has since its enactment been amended on several occasions apparently to make it more and more effective in achieving its object which has since secured more firm support from the Constitution....."

6. Keeping in view the intended object of the Act, the plea of the petitioner cannot be accepted in as much as the same if allowed to prevail would defeat the very purpose of the enactment. It is not the employer who is relevant under the Act but it is the workman who is intended to be benefited by the social welfare legislation in the form of the Act. Once the petitioner is held to be a scheduled

employer it cannot escape the liability of making the payment of minimum wages under the pretext that it was a charitable institute or was running on no profit basis. The workmen who are otherwise specified in the schedule with respect to the scheduled employer are entitled to the benefit of the Act.

7. The argument of the learned counsel for the petitioner that the compensation awarded to the workmen is excessive cannot be accepted in view of the mandate of the law as contained in sub section 3 of Section 20 of the Act which contemplates the payment of minimum wages with compensation extending to ten times the amount directed to be paid in excess. The fact of the present case clearly show that the petitioner-institution have been resisting the implementation of circular (Annexure P/2) on false pretexts and frivolous grounds and their attitude was adamant resulting in the delayed payment of minimum prescribed wages. The attitude of the petitioner-institution, therefore, justifies the imposition of penalty in the form of awarding compensation to the extent of five times only. The respondent-authorities appears to have already taken a very lenient view in the matter by awarding only five times compensation to the workmen who have not been impleaded as Party respondents in the instant case.

8. There is no merit in this petition, which is dismissed but under the circumstances of the case without any order as to costs.