
(1960) 08 MP CK 0028

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 349 of 1958

J.B. Mangaram and Co.

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 11-08-1960

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1961 MP 96 : (1960) 1 FLR 518 : (1960) JLJ 1143 : (1961) 1 LLJ 89 : (1960) 5 MPLJ 1201

Hon'ble Judges : P.V. Dixit, C.J.;K.L. Pandey, J

Bench : Division Bench

Advocate : P.L. Dube, for the Appellant; M. Adhikari, General, for the Respondent

Final Decision : Dismissed

Judgement

Dixit, C.J.

This application under Article 226 of the Constitution of India is by a partner of a firm registered under the Indian Partnership Act which is engaged in the business of manufacture of biscuits and confectionary.

The petitioner's manufactory at Gwalior has been licensed under the Factories Act as a factory employing not more than five-hundred workers on any one day during the year. According to the applicant, the number of workers in the factory has never been less than 320 and at one time it went up to 477. The grievance of the petitioner is that during the pendency of certain disputes raised by the firm and also by the union of the workers and referred to the Industrial Tribunal u/s 10(1) of the Industrial Disputes Act, 1947, for adjudication, the State Government issued a notification u/s 2(4) of the Bombay Industrial Relations Act, 1946, as adapted by the Madhya Bharat Industrial Relations (Adaptation) Act, Samvat 2006, applying all the provisions of the B. I. R. Act "to those undertakings of the biscuit and confectionary industry in the Madhya Bharat region who employ more than hundred workers from the date of the publication

of the notification".

The petitioner says that the application of the B. I. R, Act (hereinafter referred to as the Act) to the undertakings mentioned in the said notification has the effect of repealing the Industrial Disputes Act, 1947, and of putting an end to the references pending before the Industrial Tribunal, and that thus the settlement of disputes pending for adjudication before the Industrial Tribunal has been postponed and prolonged much to the detriment of industrial peace in his factory. For this reason the petitioner challenges the validity and constitutionality of the notification on various grounds and prays that the notification be declared void and inoperative and that a suitable writ requiring the State to cancel the notification and restraining it from proceeding "in any manner in pursuance of the said notification" be issued.

In the petition the validity of the notification has been questioned on several grounds. But before us Shri Puttupal Dubey, learned counsel for the applicant, attacked the validity of the notification only on one ground, namely, that it violated Article 14 of the Constitution in that by the notification the Act was applied riot to all the undertakings of the biscuit and confectionary industry but only to those "who employ more than hundred workers from the date of the publication of the notification" and there was thus an unreasonable and arbitrary classification between undertakings employing less than hundred workers and those employing more than hundred workers for the purposes of the applicability of the Act.

In our judgment, the notification in question is not vulnerable to the objection put forward by the learned counsel for the petitioner. The principles by which the validity of the notification must be tested, as laid down in repeated decisions of the Supreme Court, are these: While Article 14 of the Constitution forbids class legislation, it does not prohibit a reasonable classification for purposes of legislation.

In order to pass the test of permissible classification, the two conditions that must be satisfied are that the classification must be founded on an intelligible differentia which distinguishes persons Or things that are grouped together from others left out of the group and the differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification may be founded on different bases such as geographical, or according to objects or occupation and the like.

The decisions of the Supreme Court further lay down that there is a presumption in favour of the constitutionality of an enactment and the burden is upon the person challenging the validity to show that there has been a clear violation of the constitutional guarantee and that it must be presumed that the Legislature understands and correctly appreciates the needs of its own people and that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds; and further that the Legislature

is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest". (See *Moti Das Vs. S.P. Sahi, The Special Officer In Charge of Hindu Religious Trusts and Others*, and *Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others*,).

The question of the validity and the applicability" of the Act to undertakings of the biscuit and confectionery industry in the Madhya Bharat region employing more than hundred workers must therefore be determined in the light of the above principles. Now, it is quite true that the Act itself does not make a classification of the industries or undertakings in an industry to which it is to apply. It has been left to the discretion of the Government to apply all or any of the provisions of the Act to all or any industry whether generally or in any local area by issuing a notification u/s 2(4) of the Act.

But this discretion is not uncontrolled. The statute itself indicates with sufficient clarity the policy or principle for the guidance of the Government in the matter of exercise of the discretion. The Act, as is apparent from its preamble, is meant for regulating the relations of employers and employees and for the settlement of industrial disputes. It is not a measure dealing merely with the settlement of industrial disputes.

The Act embraces a much wider field. Its object is to regulate the relations of employers and employees and to facilitate the organisation of labour by a system of primary unions and approved unions, by investing an approved union with substantial privileges and by requiring it to undertake a corresponding set of obligations in the interest of the stability of the industry and the progress of sound trade unionism and by enabling a registered trade union to act as a representative of employees in proceedings under the Act.

The principle underlying the Act is of collective bargaining. The Act proceeds on the basis that industrial disputes are collective disputes, that is to say, they are disputes between classes rather than individual labourers. This principle is in accord with the concept of the welfare state as envisaged in the Directive Principles of State Policy contained in Chapter IV of the Constitution. ,The various provisions of the Act abundantly show that for its applicability to any industry or undertaking it is fundamental that the labour working therein should be of sufficient strength, organised, and able to act through its own union.

The Act cannot be applied to all industries and undertakings irrespective of the strength and the state of labour therein. It would be altogether unworkable if applied to an undertaking employing a handful of labourers with no organisation of their own. In the application of the Act to industries and undertakings a classification based on the strength and state of labour is therefore inevitable. Now it is trite to say that the state and strength of labour in any industry or undertaking is not a static thing.

It varies from industry to industry, undertaking to undertaking, from area to area and from time to time. It was, therefore, clearly impossible for the Legislature to

make the Act applicable to all industries and undertakings from the very time of its enactment or to provide for the application of the Act to a specific industry or to an industry at a specific time anticipating the state of labour and events.

The selection of an industry or undertaking and the time for the application of the Act to it had, therefore, to be left to the Government. This delegation of authority, however, is not unbridled. The executive action must conform to the conditions and strength of labour in the undertaking or industry to which the Act is intended to be applied. For the applicability of the Act to an industry or an undertaking it is essential that the labour employed therein is of sufficient strength and organised.

It cannot be denied that the position of labour with respect to strength, organisation and bargaining power in an undertaking such as that of the petitioner manufacturing with the aid of modern machinery different kinds of biscuits ranging from plain water biscuits to the daintiest fancy biscuits glistening in sugar and piping, is entirely different from the position of labour in a small bakery employing half a dozen or 50 workers for the preparation and sale, as biscuits, of vesiculated bread baked in little flat leaves or cakes.

The differences are organisational. The need of regulating the relations of employers and employees and settlement of disputes on collective basis is clearest when the number of labourers is large and the labour is organised. The degree of need depends on the number of labourers and their organisation. A classification based on the number of employees has, therefore, a reasonable relation to the object sought to be achieved by the statute. In the matter of fixing the actual limit of the number of employees a line has to be drawn somewhere according to experience, practical exigencies and the current economic conditions.

It cannot be maintained that in an undertaking employing at least hundred persons, the need of regulating labour is absent altogether. The need may be felt in the case of some undertakings employing even less than hundred persons. But if the law has been applied to undertakings where its need is most felt, it cannot be truck down as discriminatory because there are other undertakings to which it might have been applied.

For the foregoing reasons, we are of the view that the limitation on the applicability of the Act to undertakings of biscuit and confectionery industry employing more than hundred workers does not bring about an unreasonable and arbitrary classification. Consequently the notification issued by the opponent State on 16th August 1958 u/s 2(4) of the Act does not offend Article 14 of the Constitution and is valid. The result is that this petition is dismissed with costs. Counsel's fee is fixed at Rs. 150/. The outstanding amount of security deposit after deduction of costs shall be refunded to the petitioner.