
(2015) 09 JH CK 0051

In the Jharkhand High Court

Case No : Criminal M.P. No. 213 of 2008

Lafarge India Ltd. and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-09-2015

Acts Referred:

Minimum Wages Act, 1948 — Section 22-A

Citation : (2015) 147 FLR 516 : (2016) LLR 41

Hon'ble Judges : Harish Chandra Mishra, J.

Bench : Single Bench

Advocate : Ananda Sen, for the Appellant; R.R. Mishra, A.P.P., for the Respondent

Final Decision : Allowed

Judgement

Harish Chandra Mishra, J.—Heard learned Counsel for the petitioners and the learned Counsel for the State. The petitioners are aggrieved by the order dated 29.7.2002 passed by the learned Chief Judicial Magistrate, Jamshedpur, in C/2 Case No. 1748 of 2002, whereby cognizance has been taken against the petitioners for the offence under section 22-A of the Minimum Wages Act. The petitioners have also prayed for quashing the entire criminal proceeding against the petitioners in the said case.

2. Petitioner No. 1 is the company namely, Lafarge India Limited, Jamshedpur, through Krishna Kumar Padhy, and the petitioner No. 2 is the Manager Personal in the said Company. It is stated in the official complaint filed by the opposite party No. 2 that the inspection was made of M/s. Torrent Industrial Security Pvt. Ltd., Jamshedpur, in the premises of M/s. Lafarge India Limited, Jojobera Cement Plant, Jamshedpur, on 28.6.2002, and it was found that certain statutory registers were not maintained by M/s. Torrent Industrial Security Pvt. Ltd. On the said official complaint in which the company M/s. Lafarge India Limited, its officials as also the officials of M/s. Torrent Industrial Security Pvt. Ltd., Jamshedpur, were made the accused. On the basis of the official complaint the

cognizance has been taken against the petitioners by the impugned order dated 29.7.2002 passed by the learned Chief Judicial Magistrate, Jamshedpur, which has been challenged in the present case.

3. Learned Counsel for the petitioners have submitted that whatsoever, allegations are there in the complaint, they are against M/s. Torrent Industrial Security Pvt. Ltd., and not against the petitioners and accordingly, no offence can be said to be made out against the petitioners, simply because M/s. Torrent Industrial Security Pvt. Ltd., had its establishment in the premises of the M/s. Lafarge India Limited, Jojobera Cement Plant, at Jamshedpur. Learned Counsel has also submitted that the impugned order passed by the learned Chief Judicial Magistrate, Jamshedpur, is absolutely a non-speaking order without disclosing any reason as to why the cognizance was taken against the petitioners. Learned Counsel accordingly, submitted that the impugned order as also the entire criminal proceeding against the petitioners cannot be sustained in the eyes of law.

4. Learned Counsel for the State on the other hand has opposed the prayer submitting that M/s. Torrent Industrial Security Pvt. Ltd., was a contractor employed by M/s. Lafarge India Limited, Jojobera Cement Plant, Jamshedpur, for the security purposes and the persons employed by M/s. Torrent Industrial Security Pvt. Ltd., were not being paid the minimum wages and they were not found to have maintaining the required statutory registers. Learned Counsel accordingly, submitted that the petitioners being the principal employer, are also liable for the offence. However, the fact remains that there is no allegation against the petitioners in the complaint that the contractor's employees were employed in the petitioner Company in contravention of the provisions of Contract Labour (Regulation and Abolition) Act, 1970. Even learned Counsel for the State could not bring anything on record to show that there is any allegation against the petitioners of any contravention of the provisions of Contract Labour (Regulation and Abolition) Act.

5. In the facts of this case, since the allegations are specific against M/s. Torrent Industrial Security Pvt. Ltd., of not maintaining the statutory registers, in my considered view no offence can be said to be made out against the petitioners.

6. This apart, I also find force in the submission of the learned Counsel for the petitioners that no reason whatsoever has been disclosed by the learned Chief Judicial Magistrate, Jamshedpur, in the impugned order, for taking cognizance against the petitioners for the offence under section 22-A of the Minimum Wages Act, and the order is absolutely a non speaking order, passed without application of judicial mind. Accordingly, the impugned order dated 29.7.2002 passed by the learned Chief Judicial Magistrate, Jamshedpur, in C/2 Case No. 1748 of 2002, so far as it relates to the petitioners, as also the entire criminal proceeding against the petitioners only, in the said complaint case, are hereby, quashed. This application is accordingly, allowed.