(2013) 01 UK CK 0007

In the Uttarakhand High Court

Case No : Writ Petition No. 145 of 2013 (M/S)

Laxmi Sugar Mills Co. Ltd. APPELLANT

Vs

State of Uttarakhand and others RESPONDENT

Date of Decision : 23-01-2013

Acts Referred:

Citation : (2013) 01 UK CK 0007

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Advocate : Navneet Kaushik, for the Appellant; K.P. Upadhyay, Chief Standing Counsel present for the State, for the Respondent

Judgement

Hon''ble Servesh Kumar Gupta, J.—Having heard urgency application no. 343 of 2013, it is allowed for the reasons stated therein. Having heard the learned counsel of the petitioners as well as learned Chief Standing Counsel, it transpires that a certain Government Order was issued by way of Notification No. 1110/ VIII/12-515(writ)/2005 Office Memo/Order dated 08.09.2012 mandating all the sugar mills of the State including private ones to fix the wages of Wage Board Employees making the calculations by way of adding 50% of the basic pay in the basic pay which was being paid to the employees hitherto and then further to add the dearness allowance at the rate fixed by the Government. The learned counsel has argued that this Government Order was infact not in the spirit or rather absolutely adverse than the recommendations made by the Tripartite Committee which was organized in order to take the decisions in these matters. This Tripartite Committee included even the Labour Minister, besides Labour Secretary of the State and other responsible officers to check the labour employment and their payments in the private sugar mills nay the representatives of the Labour Union of the Wage Board Employees as well as the representatives of the management or the owners of the private mills. These recommendations have been enclosed as annexure no. 3 with the petition and even the representatives of the Wage Board Employees did agree with the same.

The learned counsel has argued that contrary to the decisions taken in the Tripartite Committee the Government now has issued the impugned Government Order and that too has made it effective retrospectively with effect from 01.10.2010. The learned Chief Standing Counsel has fairly conceded that monetary obligations upon the employer cannot be imposed retrospective as has been reiterated even by the Apex Court in the State of Uttar Pradesh and Others Vs. Basti Sugar Mills Co., Ltd., but has resisted the petition asking him to file the counter affidavit. It is abundantly clear that this Government Order so issued was even against the resolutions/recommendations passed by the Tripartite Committee in presence of the Minister as well as Secretaries of the Labour Department of the Government and if it is permitted to remain effective than the sugar mills will be bound to pay the wages as per calculations mandated in this G.O. and in that eventuality they will come to heavy pecuniary loss. If they do not comply the mandate of this G.O. instantly then there is every likelihood of massive resentment or annoyance on the part of Wage Board Employee including lockup of the private sugar mills. This is a season where there is a heavy inflow of the sugarcanes by the farmers and in that case it will be heavily detrimental to the sugar production as well as for the entire economy of the State.

2. In these circumstances, this Court hereby do stay the operation of the impugned notification No. 1110/VIII/12-515(writ)/2005 Office Memo/Order dated 08.09.2012 till the next date only.

3. Let the counter affidavit be filed by all the respondents within four weeks. List this matter immediately after winter vacation. (Stay application no. 517 of 2013 stands disposed of.)

