
(1964) 03 KAR CK 0006
In the Karnataka High Court
Case No : Writ Petition No. 2235 of 1963

M.A. Mohamed Basha

APPELLANT

Vs

Workmen of Tannery Workers' Association and Others

RESPONDENT

Date of Decision : 04-03-1964

Acts Referred:

Constitution of India, 1950 — Article 226

Industrial Disputes Act, 1947 — Section 10 (1) (c), 25 A (2), 25 C

Citation : AIR 1965 Kar 90 : (1964) 2 LLJ 449b

Hon'ble Judges : K.S. Hegde, J;G.K. Govinda Bhat, J

Bench : Division Bench

Judgement

Govinda Bhat, J.

(1) The petitioner is the proprietor of a Tannery. The petitioner has, under Article 226 of the Constitution of India, sought relief in this Court to quash the order of the Labour Court (Respondent 2) made on October 17, 1963, in Reference No. 46 of 1963 on its file and to issue a writ in the nature of prohibition to respondent 2 from proceeding any further with the said reference until the question, whether the petitioner's establishment is of seasonal character, is decided by the State Government (Respondent 3).

(2) The State Government (respondent 3) referred the following question for decision of respondent 2 u/s 10(1)(c) of the Industrial Disputes Act, 1947, hereinafter called "the Act" :

"Are the workmen of Messrs. M.A. Mohamad Basha Tannery, Kalgondanahalli, Bangalore 6, justified in demanding lay-off compensation for 40 days with effect from 1-12-1962?".

That order of reference was made on July 18, 1963 and the petitioner notified by respondent 2 on July 30, 1963. The workmen filed their claim statement before the Labour Court after service of a copy thereof on the petitioner on August 9, 1963. The petitioner filed his written statement to the claim statement on

September 25, 1963 and the Labour Court posted the case for enquiry on 14-10-1963.

It may be mentioned that the only contention of the petitioner before respondent 2 was that the number of workmen employed in his industrial establishment was less than 50 and as such, the provisions of Section 25-C of the Act are inapplicable. When the matter came up for enquiry on 14-10-1963, before respondent 2, the petitioner made an application on that date raising a contention that his establishment is of a seasonal character coming within the scope of Section 25-A(2) of the Act and the Labour Court had no jurisdiction to deal with the reference and as such, the reference may be rejected. That application was heard by the Labour Court and the impugned order was passed on the view, that no provision of law, under which the Court could stay the further proceedings until the determination of the question by respondent 3, was brought to its notice. Aggrieved by the said order, the petitioner has filed the above writ petition.

(3) It is undisputed that u/s 25-A(2) of the Act, the competent authority to decide the question whether an industrial establishment is of a seasonal character or work is performed intermittently, is the state Government and that question has to be decided when it arises between the management and its workers. When the petitioner filed his written statement before the respondent 2 on September 25, 1963, no contention was raised that the establishment of the petitioner is either of a seasonal character or work is carried on therein intermittently. Therefore, on the pleadings raised by the parties, no question of the seasonal character of the establishment of the petitioner arose, when the case came up for hearing before respondent 2.

The question referred to in Section 25-A(2) could arise as incidental to the determination of a possible industrial dispute or when a claim founded on Section 25-C is resisted by the management on the ground that the establishment is of a seasonal character or the work is carried on therein intermittently. In other words, the question may arise where the management, even before the reference, contends before the Government that its establishment falls u/s 25-A(2) or it may arise as an issue on the pleadings before the Labour Court. In the instant case, no such question had arisen for decision by respondent 3 when the impugned order was made and therefore, respondent was fully justified in rejecting the application made by the petitioner.

(4) It is however, argued by Sri. G.S. Ullal, learned counsel for the petitioner, that subsequent to the date of the impugned order, petitioner has made an application to respondent 3 raising the question of the seasonal character of his establishment and requesting the Government to give its decision on that question. If such an application had been made and the question had been raised, the State Government has a duty cast under the Act to decide that question. We are, sure that respondent 3 will expeditiously decide that question before respondent 2 further proceeds with the decision on the point of dispute

referred. Since u/s 25-A(2) of the Act, the decision to be given by the State Government is of a quasi-judicial nature, it would be appropriate for the decision. Respondent 2, in these circumstances may appropriately adjourn its proceedings to await the decision of the Government on the question.

(5) With these observations, this writ petition is dismissed with costs of respondent 1. Advocate's fee Rs. 100/-