

(1998) 12 AP CK 0064

In the Andhra Pradesh High Court

Case No : Writ Petition Nos.29666 and 29670 of 1998

Pondur Milk Producers Co.operative Society

APPELLANT

Vs

Authority under Minimum Wages Act and Assistant
Commissioner of Labour, Ongole and another

RESPONDENT

Date of Decision : 28-12-1998

Acts Referred:

Minimum Wages Act, 1948 — Section 3, 3(1)

Citation : (1999) 1 ALD 435 : (1999) 1 ALT 494 : (1999) 1 APLJ 28 : (1999) 82
FLR 192 : (1999) 2 LLJ 286

Hon'ble Judges : Bilal Nazki, J

Bench : Single Bench

Advocate : Mr. M. Ravinder Nath Reddy, for the Appellant; Mr. K. Ananda Rao,
for the Respondent

Judgement

1. Same questions of fact and law are involved in these two writ petitions. Stay has been granted by this Court and vacate stay applications have been filed. The controversy is very short, the writ petitions already stand admitted, Counters have been filed and the learned Counsel for the parties have been heard at length, therefore the main petitions are decided by this judgment.

2. These petitions are filed against the orders passed by the Authority under the Minimum Wages Act. By the order under challenge, the authority allowed the claim of the respondent and directed payment of difference of wages as it was found that minimum wages had not been paid. The order is challenged mainly on two grounds. (1) that the claim itself was time barred, and (2) that, in terms of Schedule to Minimum Wages Act, 1948 the writ petitioner is not an employer subject to Minimum Wages Act.

3. It is true that the claim had been filed beyond time and an application for condonation of delay had also been filed before the competent authority and the competent authority by order dated 30th August, 1997 condoned the delay. That order was not challenged. Since the competent authority has considered the

grounds for condonation of delay and also has considered the objections taken by the writ petitioner before him, I do not think that this ground is available to the writ petitioner now at this stage. Therefore, the first argument that the order was passed in the claim petition beyond lime cannot be accepted and is rejected.

4. Coming to the second argument, it is stated that the petitioner is a Milk Producers Co-operative Society and the Milk Producers Co-operative Society is not one of the society to be found in Schedule to Minimum Wages Act. Section 3 of the Minimum Wages Act lays down the manner in which the appropriate Government can fix the minimum rates of wages. Section 3(1)(a) states that, appropriate Government can fix the minimum rates of wages payable to employees employed in an employment specified in Part-I or Part-II of the Schedule. It is stated by the learned Counsel for the petitioner that Part-I of the Schedule has only one entry relating to Andhra Pradesh with regard to Co-operative Societies that is Entry No.21 which lays down, "Employment in any Marketing Societies, Consumers Co-operative Societies and Co-operative Banks". His argument is that, since Entry No. 21 does not say of Milk Producers Co-operative Societies, therefore the petitioners are not subject to the Minimum Wages Act. This is unacceptable argument as in terms of Section 2(P) of the A.P. Co-operative Societies Act, 1964 " "Society" means, a Co-operative Society registered or deemed to be registered under this Act." Since the Schedule of Minimum Wages Act lays down that it shall be applicable to Marketing Societies Consumer Co-operative Societies and Co-operative Banks, that would mean that all societies which are registered under Co-operative Societies Act are subject to the provisions of Minimum Wages Act. In fact, all Co-operative Societies are Consumer Co-operative Societies. If the interpretation placed by the petitioner is accepted, then, the provisions of the Minimum Wages Act can be defeated by any Co-operative Society affixing its name by any other term. The present petitioner is basically a Co-operative Society. No doubt it is dealing with Milk Production, but that does not change its character under the Cooperative Societies Act. If a society is registered under Co-operative Societies Act, in my view, it is a society within the meaning of entry No.21 of Schedule to Minimum Wages Act.

5. Reliance has been placed by the learned Counsel for the petitioner on various judgments one of the judgment being Micro Raj Electronics (Pvt.) Ltd. Vs. Authority under Minimum Wages Act-cum-Joint Commissioner of Labour and Others, . In this Judgment the Court found that the authority had not given sufficient reason for condoning the delay, therefore allowed the writ petitions and in those cases the orders condoning the delay itself had been challenged. In the present case the condoning of delay as such has not been challenged at all. The order condoning the delay had been passed on 30-8-1997 and the petitioner thereafter contested the claim and after contesting the claim, in my view, it is not open to him to challenge now the order condoning the delay. The judgment referred to above Micro Raj Electronics (P) Ltd. v. Authority under Minimum Wages Act, (supra) will not come to his rescue.

6. A reference has also been made to judgment of Supreme Court in Labour Inspector, Central Vs. The Chittapore Stone Quarrying Co. (P) Ltd. and Others, . This is a judgment by majority. The case before the Supreme Court was that the appropriate Government had fixed the rates under Minimum Wages Act for those employed in Stone breaking or Stone crushing in Gulbarga district. The employer in that case was engaged in Stone quarrying. The majority found that the Stone quarrying was different than Stone crushing or Stone breaking. The facts of the case are altogether different than the facts of the present case. Here the activity of Co-operative is not in dispute, only it is stated that the Milk Cooperative Societies are not to be found in the Schedule to Minimum Wages Act. In fact. Co-operative Societies with reference to their activity are not at all shown in the Schedule. In my view, that has been done purposely because such a list could never be inclusive of all such societies. There can be Milk Producers Co-operative Society, Vegetable Producers Co-operative Society and the list can be endless. The fact remains that the Schedule of the Minimum Wages Act includes all Co-operative Societies which are societies registered under the Co-operative Societies Act.

7. The learned Counsel for the petitioner also relied on judgments in Madhya Pradesh Mineral Industry Association Vs. The Regional Labour Commissioner Jabalpur and Others, , and, Haryana Unrecognised Schools Association Vs. State of Haryana, , which are not applicable to the facts of the present case.

8. For the reasons given above, I do not find any merit in these writ petitions which are accordingly dismissed.