

**(2009) 01 AHC CK 0170**  
**In the Allahabad High Court**

Ram Niwas Bharti, President Laxman Bharti Saraswati Vidya Mandir APPELLANT

Vs

Assistant Labour Commissioner RESPONDENT

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**Date of Decision :** 13-01-2009

**Acts Referred:**

Minimum Wages Act, 1948 — Section 20  
Payment of Wages Act, 1936 — Section 15

**Citation :** (2009) 121 FLR 233 : (2009) 3 LLJ 677

**Hon'ble Judges :** S.U. Khan, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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**Judgement**

S.U. Khan, J.—Heard learned Counsel for the parties.

Ram Niwas Bharti, President of Laxman Bharti Saraswati Vidya Mandir, Bhati, District Mau has filed all these writ petitions against different employees of the school. All these writ petitions involve common questions of law. Seven employees of the school, each of whom is respondent No. 2 in each writ petition, filed application for payment of minimum wages under Minimum Wages Act, 1948. Delay was condoned by the prescribed authority under Minimum Wages Act, 1948 and application was allowed for payment of balance amount i.e. difference in between the amount required to be paid and the amount actually paid. The period for which, the amount was claimed was in between 1985 to 1988 by each employee. As far as condonation of delay is concerned, I do not find any fault. Moreover, in exercise of writ jurisdiction normally no interference is made in the orders of condoning the delay unless there is something utterly wrong with the order.

2. The main point argued by the learned Counsel for the petitioner in these petitions is that under Minimum Wages Act private schools are not covered. Annexure-6 to the writ petition is copy of Government Order dated December 1, 1984 through which minimum wages were fixed for private schools ranging in

between Rs. 299/- per month to Rs. 490/- per month. In the written statement filed before the authority below or in these Writ petitions, it has not been stated that there was any error of calculation in the charts given by the employees. A vague allegation was made that some employees had embezzled some money. However, no proceedings for embezzlement were taken by the management. Another vague allegation was made in the written statement that some advance money had been taken, however no details have been given.

3. The Government Order dated December 1, 1984 was cancelled by another Government Order dated June 1, 1989. All the claims related to the period from December 1, 1984 to June 1, 1989 when Government Order dated December 1, 1984 was in operation.

4. Learned Counsel for the petitioner has cited two authorities. One is in U.P. Basic Shiksha Parishad Vs. Prescribed Authority under payment of Wages Act, 1936 and Smt. Pramila Devi, In this authority, the claim related to the period after 1989. Accordingly, it was held that there being no Government Order fixing minimum wages for private educational institutions, no order under Minimum Wages Act could be passed. Accordingly, the said authority is not applicable. The other authority cited is in R.D.S.O. Basic School v. Prescribed Authority 1992 (2) U.P.L.B.E.C. 1472. In Para 15 of the said authority, it has been held that for the period from December 1, 1984 to June 1, 1989, Minimum wages were payable to the employees of private schools.

5. The other point decided in the above authorities is that provisions of Payment of Wages Act, 1936 are not applicable to educational institution, hence application filed by an employee before the Prescribed Authority u/s 15 of Payment of Wages Act, 1936 was not maintainable. However, in the instant writ petitions, applications were filed by the employees u/s 20(2) of Minimum Wages Act, 1948 and not under Payment of Wages Act, 1936 and the applications were filed before the authority constituted u/s 20 of Minimum Wages Act, 1948.

6. Accordingly, I do not see any error in the impugned orders. Writ petitions are therefore dismissed.