
(2008) 07 AHC CK 0077
In the Allahabad High Court

Satish Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 08-07-2008

Acts Referred:

Citation : (2008) 118 FLR 798 : (2008) 3 LLJ 879

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard Counsel for the petitioner and the Standing counsel.

Shop of the petitioner was inspected by Labour Enforcement Officer/Incharge. Child Labour, Sant Kabir Nagar on November 26, 2007. On inspection, it was found that the petitioner was employing child labour, consequently the Deputy Labour Commissioner, U.P. Lucknow issued a notice dated January 14, 2008 directing the petitioner to deposit Rs. 20,000/- as provided under Child Labour (Prohibition and Regulation) Act, 1986 for employing a child labour read with G.O. and judgment rendered by the Apex Court in M.C. Mehta Vs. State of Tamil Nadu and others,

2. Contention of the Counsel for petitioner is that the aforesaid recovery certificate has been issued without affording any opportunity to the petitioner and that according to medical certificate issued by Additional Chief Medical Officer, Sant Kabir Nagar, age of respondent No. 6, Mukesh is about 15 years.

3. From the inspection report appended as Annexure-1 to the writ petition, it appears that Mukesh son of Chinkoo, resident of village Manjhariya Tiwari, Post Mehdawal, Sant Kabir Nagar was found working as helper in the petitioner's shop. Thumb impression of the aforesaid child labour has also been taken by Labour inspector on the inspection note. It also appears that the petitioner refused to accept copy of the inspection report from the labour inspector and also refused to sign the same in token of receipt thereof. Hence, in the aforesaid

backdrop, it cannot be said that the aforesaid order has been passed without giving any opportunity of hearing to the petitioner.

4. Moreover a medical certificate of any doctor at the behest of the employer has no sanctity as the child labour is to be examined by the medical authority under the Act through the Labour Enforcement Officer.

5. It is a fact that even by a scientific approach the medical practitioner cannot determine the correct age of any person and there is always a variance of + - two years even in ossification test of bones for determination of age. If the doctor at the behest of the petitioner has examined the age of the child labour said to be employed by him as 15 years, his age could be anywhere in the range of 13 to 17 years.

6. Therefore, it is not ruled out that Mukesh, the said child labour is not less than 14 years of age. For the reasons Stated above, this Court is not inclined to interfere in the matter.

7. The writ petition is accordingly dismissed.

8. Order as to costs.