
(1996) 11 AHC CK 0114
In the Allahabad High Court
Case No : C.M.W.P. No. 2193 of 1983

Shikohabad Sahkari Krai Vikrai Samiti Ltd.	APPELLANT
Vs	
Prescribed Authority, Minimum Wages Act and Others	RESPONDENT

Date of Decision : 19-11-1996

Acts Referred:

Constitution of India, 1950 — Article 226
Minimum Wages Act, 1948 — Section 20(2), 26

Citation : (1996) 11 AHC CK 0114

Hon'ble Judges : P.K. Jain, J;D.S. Sinha, J

Bench : Division Bench

Advocate : U.S.M. Tripathi, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Shri U. S. M. Tripathi, learned Counsel appearing for the Petitioner and Shri A. K. Shukla, learned standing counsel representing the Respondent No. 1. Nobody appears for the Respondents No. 2, 3, 4, 5, 6 and 7 despite due service of notice upon them.

2. By means of this petition under Article 226 of the Constitution of India the Petitioner seeks to challenge the order dated 14th December, 1982 passed by the Prescribed Authority, Minimum Wages Act, Firozabad, District Agra, the Respondent No. 1, u/s 20(2) of the Minimum Wages Act, 1948. hereinafter called the Act, a copy of which is Annexure 5 to the petition.

3. By the impugned order the Prescribed Authority has called upon the Petitioner to pay to the Respondent Nos. 3, 4, 5, 6 and 7 the balance of the minimum wages specified in the order alongwith the compensation. The direction to pay the minimum wages is founded on the findings that the Petitioner is covered by the expression employer, and that the said Respondents are employees as defined in the Act. Further finding of the Prescribed Authority is that the Petitioner had in fact not paid the minimum wages to the Respondents under

reference.

4. The stand taken by the Petitioner before the Prescribed Authority was that in view of the provisions of Section 120 of the U.P. Co-operative Societies Act, 1965, (hereinafter called the Co-operative Societies Act), the provision of the Act do not apply. The same stand is reiterated before this Court also.

5. Section 120 of the Co-operative Societies Act is as follows:

120. Qualifications for appointment as secretary; manager, etc. of cooperative societies.--(1) No person shall be appointed by a co-operative society as secretary, manager, accountant or any other officer to be paid or remunerated by the society unless he possesses such qualifications and furnishes such security, if any as may be specified by the Registrar from time to time in respect of any co-operative society or class of societies.

(2) Any person appointed in contravention of the provisions contained in Sub-section (1) shall be liable to removal from his office by the Registrar.

Bare reading of it shows that Section 120 of the Co-operative Societies Act deals with the qualification for appointment as secretary, manager, etc. of the Co-operative Societies. It has nothing to do with exemption from the operation of the provisions of the Act to a co-operative society or its employees.

6. The exemption from the provisions of the Act is to be found in Section 26 of the Act, which reads thus:

26. Exemptions and exceptions.--

(1) The appropriate Government may, subject to such conditions, if any, as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.

(2) The appropriate Government may, if for special reasons it thinks so fit by notification in the Official Gazette, direct that (subject to such conditions and) for such period as it may specify, the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.

(2A) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area (or to any establishment or a part of any establishment in a scheduled employment), it is not necessary to fix minimum wages in respect of such employees of that class (or in respect of employees in such establishment or such part of any establishment) as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification In the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any or them shall not apply in relation to such employees.)

(3) Nothing in this Act shall apply, to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

Explanation.--In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister.

7. Besides itself providing, Section 26 of the Act empowers the appropriate Government to provide for exemptions and exceptions relating to applicability of this Act by notification in the Official Gazette. Neither any part of Section 26 provides exemption and exception in respect of a co-operative society or its employees nor any requisite notification by the appropriate Government regarding exemption and exception has been produced before the Court. Therefore, the stand taken by the Petitioner cannot be upheld.

8. The impugned order is perfect being within the four corners of the provisions of the Act. It does not suffer from any such error or infirmity which may warrant interference by this Court in exercise of its special and extraordinary jurisdiction under Article 226 of the Constitution of India.

9. In result, the petition falls and is hereby dismissed. The interim order dated 21st October, 1983 shall stand discharged. The order of the Respondent No. 1, dated 14th December, 1982 be implemented without any further delay. There is no order as to costs.