

(2009) 04 AHC CK 0271
In the Allahabad High Court

Yadav Bricks Udyog Marka M.H.S.and Another	APPELLANT
Vs	
State of U.P.and Others	RESPONDENT

Date of Decision : 29-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0271

Hon'ble Judges : Arun Tandon, J

Final Decision : Disposed Of

Judgement

Arun Tandon, J.

It is stated that the impugned notice requiring the petitioner to deposit Rs. 60,000/ as penalty for employment of three child labour at his unit as well as recovery proceeding initiated in response thereto dated 29.03.2009 are all ex parte inasmuch as the petitioner was not afforded any opportunity to establish that no child labour within the definition of Abolition of Child Labour Act was employed in the petitioner's unit.

Standing Counsel on behalf of the respondent submits that the Court may require the Deputy Labour Commissioner, Gorakhpur to afford an opportunity to the writ petitioner and to pass a fresh order in accordance with law.

In view of the aforesaid statement, no purpose would be served by keeping the writ petition pending specifically in view of the order proposed to be passed today.

In paragraphs 9 and 10 it is stated that the petitioner was not afforded opportunity to substantiate that the three children mentioned in the order dated 16.04.2008 were not employed in his unit. He submits that the order dated 29.03.2009 being ex parte, cannot be permitted to stand.

Having regard to the order dated 16.04.2009 this Court finds that only on the basis of an inspection made by the Deputy Labour Commissioner a penalty of Rs. 60,000/ was levied upon the writ petitioner with reference to the three children employed in the petitioner's unit, names of such children is also mentioned.

However the stand taken by the petitioner also needs examination as to whether the aforesaid three children were actually employed in petitioner's unit or not.

In view of the aforesaid, interest of substantial justice would be served by provided as follows :

Petitioner may treat the demand notice dated 16.04.2009 as a show cause notice and he may submits his reply within four weeks from today along with a certified copy of this order, before the Deputy Labour Commissioner, raising all such pleas as he may be advised. The Deputy Labour Commissioner shall thereafter consider the reply furnished by the petitioner and shall proceed to pass a reasoned speaking order. The said exercise be completed within four weeks from the date the reply is so filed.

Initially for a period of two months from today, recovery initiated under the Citation dated 29.03.2009 shall remain in abeyance and shall thereafter abide the orders to be passed by the Deputy Labour Commissioner, as indicated above.

With the aforesaid observations, the writ petition is disposed of.